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## REPORT OF THE New York City Charter Commission TO THE LEGISLATURE, 1909

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# Report

of the

## New York City Charter Commission to the Legislature, 1909.

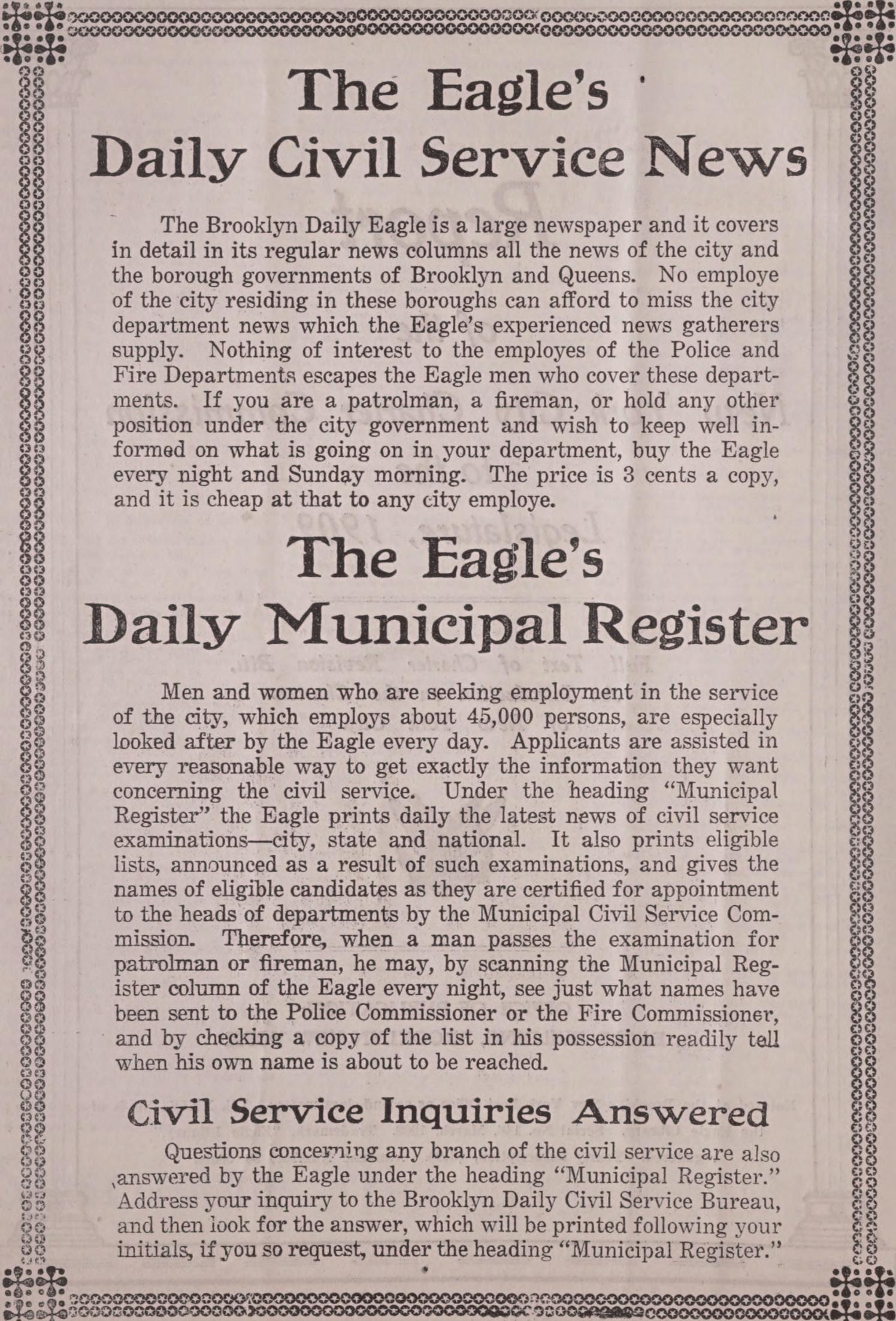
*Full Text of Charter Revision Bill.*

*An Introduction on the Charters  
of New York City.*



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# The Eagle's Daily Civil Service News

The Brooklyn Daily Eagle is a large newspaper and it covers in detail in its regular news columns all the news of the city and the borough governments of Brooklyn and Queens. No employe of the city residing in these boroughs can afford to miss the city department news which the Eagle's experienced news gatherers supply. Nothing of interest to the employes of the Police and Fire Departments escapes the Eagle men who cover these departments. If you are a patrolman, a fireman, or hold any other position under the city government and wish to keep well informed on what is going on in your department, buy the Eagle every night and Sunday morning. The price is 3 cents a copy, and it is cheap at that to any city employe.

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Men and women who are seeking employment in the service of the city, which employs about 45,000 persons, are especially looked after by the Eagle every day. Applicants are assisted in every reasonable way to get exactly the information they want concerning the civil service. Under the heading "Municipal Register" the Eagle prints daily the latest news of civil service examinations—city, state and national. It also prints eligible lists, announced as a result of such examinations, and gives the names of eligible candidates as they are certified for appointment to the heads of departments by the Municipal Civil Service Commission. Therefore, when a man passes the examination for patrolman or fireman, he may, by scanning the Municipal Register column of the Eagle every night, see just what names have been sent to the Police Commissioner or the Fire Commissioner, and by checking a copy of the list in his possession readily tell when his own name is about to be reached.

## Civil Service Inquiries Answered

Questions concerning any branch of the civil service are also answered by the Eagle under the heading "Municipal Register." Address your inquiry to the Brooklyn Daily Civil Service Bureau, and then look for the answer, which will be printed following your initials, if you so request, under the heading "Municipal Register."

# Some Facts About the Proposed Charter and History of Charter Making in New York

The Charter Revision Commission appointed by Governor Hughes in 1908 made its report to the Legislature of New York state on March 8, 1909. The proposed charter is largely reduced in volume of words and phraseology. It contains about 75,000 words, while the present charter of New York City has over a half a million. The charter and code together are about one-quarter the volume of the one now in force. The keynote of the new charter is centralization of power in the mayoralty office of the city and the reduction of authority now vested in the borough governments. There are many radical changes suggested, and if the bill is passed as presented the city government will be revolutionized in many respects.

The Board of Estimate and Apportionment will be the greatest business executive committee of the city, and will have complete control of the city's financial affairs. It consists of eight members, elected as at present. The borough presidents, however, will not have any administrative functions. They will not be able to make expenditures of any sum, however small.

There will be seven bureaus in the Board of Estimate and Apportionment: (1) The Bureau of Public Improvements and Engineering will complete the city map, pass upon all future improvements, make a comprehensive plan of city development, and prepare an annual estimate of the cost of improvements to be paid out of the issue of corporate stock. It will inspect all work in progress, and all structural material. (2) The Bureau of Supplies will be the central purchasing agency for all of the supplies of the city. (3) The Bureau of Real Estate will have the custody of the record of the city's realty holdings, and, together with the corporation counsel, will have charge of condemnation proceedings, purchases and leases. (4) The Bureau of Claims will be the bureau through which the board of estimate and apportionment will settle all claims against the city. (5) The Bureau of Publicity and Statistics will have charge of the City Record, of advertising, and the statistical co-ordination of the city's accounts. (6) The Bureau of Salaries will be charged with the grading and classification of all salary items in the budget, which will permit the fixing of like salaries for like services. There will be no change in the law with regard to the prevailing rate of wages. The Board of Estimate and Apportionment will have control over all salaries, including the salaries of all county officers and

their subordinates in the budget. (7) The Bureau of Franchises will pass upon all applications for franchises in the first instance, and will be charged with the duty of seeing that grantees of franchises conform to the terms of their contracts.

The Board of Estimate and Apportionment will be required to make a budget of receipts as well as of expenditure.

The borough presidents, as members of the Board of Estimate and Apportionment, will be required to give their entire attention to the business of the board.

Instead of one large mayor and five

## WM. M. IVINS,



Chairman of Charter Revision Committee.

small ones, there will be a single executive, and complete unity of executive responsibility in the mayor.

The Board of Aldermen will be abolished, and in its place there will be created a Council of thirty-nine members, to serve without pay. It will have large ordinance-making power, but will have no control over the administrative business of the city, or over franchises. It will have the right to veto specific appropriations in the budget, and will make the tax levy. It will have co-ordinate power with the legislature to amend the provisions of the administrative code which are purely local.

The department of buildings will be re-created, and the commissioner of buildings appointed by the mayor.

The department of street cleaning will be abolished. The entire control of streets and sewers, and of street cleaning, will be in a department of street control, for which the mayor will be responsible.

There will be five boards of local improvement, one for each borough, the board in each borough to consist of the members of the Council from that borough. The twenty-five local boards of improvement under the present charter will be wiped out. The limit of expenditure by board of local improvement, where the cost is assessed upon the property benefited, will be increased to \$5,000.

The Board of Sinking Fund Commissioners and the Board of Estimate and Apportionment will hereafter be identical.

The sinking funds and the bonds and obligations of the city are classified and defined.

There will be a Bureau of Revenue and collection in the office of the city treasury, and the collection of all revenues from all sources will be consolidated in this bureau.

All fees of county officers will be paid into the city treasury.

There will also be a Bureau of Licenses in the city treasury department, and all licenses and permits will be granted by this bureau alone.

No current expenses for administration or operation can be paid out of the proceeds of corporate stock.

Cost of ferry operation can no longer be paid out of the proceeds of corporate stock, but will have to be paid out of taxes. The city is now using \$1,250,000 a year to meet ferry losses, and is paying the loss out of the proceeds of bonds which should be devoted to subways.

The administrative budget of the department of docks will be made in the same manner as that of all other departments.

The board of education will cease to be a separate corporation, and will be reduced to fifteen members.

There will be thirty-nine local school boards.

The corporations of the College of the City of New York and the Normal College of the City of New York are continued.

The city will be empowered to purchase real property for public purposes by agreement, without resort to condemnation.

The office of coroner is abolished. Medical examinations and autopsies will be performed in future under the direction of the health department. Inquests will be conducted by city magistrates. Ample provision is made for ambulance service.

Pension funds are guaranteed and continued, but appropriations for pension funds shall be accompanied by statements of all revenues of such funds from all sources.

The board of aqueduct commissioners is abolished.

There will be a uniformed superintendent of police. The age limit for entering the police department will be raised to 25 years. Police and fire trials will be conducted by specially appointed deputies, under rules to be approved by the Appellate Division, and the trials will be subject to review by appeal instead of certiorari. The police commissioner will be required to prescribe uniform penalties.

All commissioners will have the fullest power to make rules and regulations for the government of their departments.

The Civil Service provisions are brought together in a single chapter and materially strengthened.

City marshals will be appointed by the judges of the Municipal Courts.

#### Charter Revision Commission.

The fifteen men of the Charter Revision Commission are: William M. Ivins, chairman; James Cowden Meyers, secretary; Alfred J. Boulton, of Brooklyn; George Cromwell, borough president of Staten Island; J. H. Dougherty, of Manhattan, formerly of Brooklyn; George L. Duval; Nathaniel A. Elsberg; E. R. L. Gould; A. R. Latson, president of the Union League Club of Brooklyn; George McAneny; P. F. McGowan, president of the Board of Aldermen; Herman A. Metz, controller; Harrison S. Moore, of Flushing, L. I.; W. W. Niles, The Bronx; and Charles H. Strong. Chase Mellen, formerly assistant corporation counsel, was counsel for the commission, and Moses Altmann the clerk.

#### Outline of Present City Government.

In view of the complexity of the present charter, and the discussion which naturally arises by the recommendations of the charter commission. It may be well to outline the present form of city government:

The City of New York is composed of the old cities of New York, Brooklyn and Long Island City, and of the various other municipalities contained within the counties of New York, Richmond, Kings and Queens as those counties exist today. The old City of New York consisted of several smaller municipalities which were gradually absorbed. Some of them were on Manhattan and others were in the territory north of the Harlem River, the annexation of which began in 1873 and extended up to 1895. The old City of Brooklyn included Brooklyn, Williamsburg, Bushwick, Flatbush and the other municipalities within the old County of Kings. This territory embraced in the city has an area of 326 square miles and is divided into five boroughs: Manhattan, Brooklyn, Queens, the Bronx and Richmond. Each of these boroughs has a president, elected by its voters at large. The executive of the city is com-

posed of the mayor, as its head, the borough presidents and the following administrative departments: Finance, Law, Police, Water Supply, Gas and Electricity, Street Cleaning, Bridges, Parks, Public Charities, Correction, Fire, Docks and Ferries, Taxes and Assessments, Education, Health, Tenement House. Each of these departments is presided over by either a commissioner or a board of commissioners. The Board of Education is largely an independent corporation over which the city has practically no control. Also independent of any of the administrative departments is the Board of Trustees of Bellevue and Allied Hospitals, which is classified in the charter as a branch of the Department of Public Charities.

#### Present Duties of Borough Presidents

The borough presidents have power to appoint and remove a commissioner and an assistant commissioner of public works who, in his absence or disability, may represent him. A borough president has charge of the following subjects: Regulating, grading, etc., of streets; constructing and repairing public roads; paving, repaving, resurfacing, repairing streets and relaying of pavements; laying and relaying surface railroad tracks, form of rail, character of foundation, etc.; filling sunken lots, fencing vacant lots, licensing vaults under sidewalks; removing incumbrances, issue of permits to builders and others to use or open the streets; constructing and maintaining bridges and tunnels within the borough, all matters pertaining to the public sewers and drainage of his borough; constructing, repairing, cleaning, etc., of public buildings and markets, except schoolhouses and other buildings whose care and custody are otherwise provided for; the care and cleaning of offices used for public purposes; locating, establishing, maintaining, etc., of public baths, etc., and placing of street signs. Each president prepares his own contracts, subject to approval as to form by the corporation counsel. Much of this power will be taken away if the new charter is accepted as it has been presented.

The mayor appoints all heads of departments and removes them in his discretion. The mayor, as the chief executive officer of the city, is elected every four years and his powers are extensive, but by no means well defined, as compared with some of the duties of other city officers. He may be removed by the governor in the same manner as sheriffs, except that the removal proceedings may be conducted by the attorney general in the governor's discretion.

The controller is the head of the Finance Department. He is elected by the people of the city at large for a term of four years and is subject to removal by the governor. The Finance Department is composed of a number of bureaus, of which six are required by the charter. The controller has a general jurisdiction in financial matters of the city, subject, however, in many essential respects, to the Board of Estimate and Apportionment and the Board of Aldermen. The chamberlain is appointed by the mayor and is virtually the city treasurer or paymaster and may be re-

moved by the mayor as any other head of a department.

The legislative branch of the city consists of the Board of Aldermen, the president of whom is elected by the voters for four years. One member of the board is elected from each of the seventy-three aldermanic districts into which the city is divided. Of these districts there are thirty-three in Manhattan, eight in The Bronx, twenty-four in Brooklyn, five in Queens and three in Richmond. The Board of Aldermen elect a vice president who represents the president when he is absent. The president of the Board of Aldermen acts as mayor during the mayor's absence. Each head of an administrative department is entitled to a seat in the board and must attend its meetings when required, and may participate in discussion, but has no vote in the proceedings.

Resolutions and ordinances are subject to the veto of the mayor, but may be passed over his veto by the votes of at least two-thirds of all the members of the board, except on a question of the expenditure of money, the creation of a debt, or the levying of an assessment, in which event it requires a vote of three-fourths of all the members of the board to pass it over the mayor's veto, and if the grant of a franchise is involved, the mayor's veto is final.

The Board of Estimate and Apportionment, consisting of the mayor, controller, president of the Board of Aldermen and the five borough presidents, exercises both administrative and legislative functions. The mayor, controller and president of the Board of Aldermen have each three votes upon any proposition coming from the board. The presidents of Manhattan and Brooklyn have each two votes and the other presidents have one vote each.

A feature of the present charter was the provision for boards of local improvements (title 2 of chapter X). There are 25 districts. The membership of each board consists of the president of the borough by virtue of his office and of the aldermen whose aldermanic districts are within the local improvement district. The initiation of the work of repairs and improvement within their respective districts is placed in hands of these boards. It was designed to bring the people into close touch with administration and to apply the principle underlying town organization and control. This feature is wiped out by the new proposed charter.

It is not necessary to enter into the details of each department of the city. Enough has been presented to give a general outline of the city government and its officers. As to the duties of some of these officers it is said there is considerable conflict. For instance, the duties of the Commissioner of Street Cleaning have never been clearly defined as regards the duties of the borough presidents of Manhattan, the Bronx and Brooklyn. The commissioner has jurisdiction of the sweeping and cleaning of streets, garbage, snow and ice, in Manhattan, The Bronx and Brooklyn, but not in Richmond and Queens. Conflicts of authority occur in other departments, it is complained. The duties of the president of the Borough of Manhattan and

the mayor frequently are intertwined, it is said, in some instances almost resulting in duplicate mayors.

#### Charter Not the Only City Law.

It is not to be assumed that our charter contains all the statute law dealing with the territory of Greater New York, for it contains but a small part of it.

Many of the provisions for the government of the City Court of New York are to be found in the Code of Civil Procedure; the Code of Criminal Procedure also contains sections applicable only to New York City.

The Municipal Court Act contains an entire system of procedure applicable only to New York City. This may be obtained in Eagle Library No. 70, revised to 1908.

The Tenement House Act affects only New York City and affects vitally an enormous part of the population.

This law, with all the building and health laws, is issued in book form as Library No. 121, revised to 1908.

The Metropolitan Elections District Law affects New York City and some added territory. This will be found in Library No. 44, together with all state election laws up to date.

The tax laws and the rules of the civil service contain many provisions bearing on New York City. Consult the full list of Eagle Libraries in the back of the book.

#### History of Charter Making.

It is interesting to glance at the history of charter making in New York City. The first government of civilization established on Manhattan was that of the West India Company, under a charter granted to it by the States General of the Netherlands in 1621. Almost imperial powers were granted by this charter. Even at that early day many efforts were made by the settlers to obtain some semblance of self-government, and Peter Stuyvesant, who seems to have been impressed with the justice of this demand, ordered an election in 1647, in which the people of Manhattan, Breucklen, Amersfoort and Pavonia chose eighteen persons, from whom the director general and his counsel were to select a board of nine to assist Stuyvesant in providing for the general welfare.

The first English charter, known as the Nicolls charter, a copy of which has appeared in former editions of this book, was granted in 1665. By it the inhabitants of New York, New Harlem and other residents on the Island of Manhattan were formed into a corporation under the government of a mayor, aldermen and sheriff. In 1675 the Nicolls charter was reaffirmed, and the first governor under the restored rule of the English was Thomas Dongan, and a charter granted by him in the name of King James II was the first great charter of the city. The Dongan charter and the successive charters granted in the name

of the king in 1708 and 1730 are to-day parts of the charter of the present city government, except so far as they have been modified by enactments of the Assembly of the Colony of New York or of the Legislature of the State of New York. They are the title deeds to many of the most valuable property rights owned by the corporation, and from them spring many fundamental privileges and franchises of the city and its people.

The Montgomerie charter conferred further powers of self-government upon the inhabitants of the city, and the purpose of it was to clear up ambiguities and controversies which had arisen concerning the validity of the Dongan charter and other grants and confirmations.

These charters and the various acts of the Colonial Assembly were expressly confirmed by the first constitution of the State of New York in 1777 and by each succeeding constitution, but it has been decided in the courts that the Dongan and Montgomerie charters have no peculiar sanctity, as they were granted under the sovereigns of England. In these early charters the Common Council figured as one of the institutions of antiquity. The commonalty—that is, those who were, under the appropriate definitions of the royal charters, entitled to be inhabitants and citizens of the city—acted by representation in the Council. For many years it preserved a certain dignity and was an efficient body, but an examination of the statute books, especially so since the State of New York became a member of the Union, shows there was a steady lessening of the powers of the Common Council. The charter of 1830 contains the first definite designation of the Common Council as a legislative body. The Council was made to consist of two houses—a Board of Aldermen and a Board of Assistants, sitting separately—and the mayor ceased to be a member of the Common Council. By the revised charter of 1901 the body was again reduced to a single house, known as the Board of Aldermen. At the present time the Common Council exercises insignificant powers of legislation, but remains as a nucleus of strictly representative government.

The early charters, with some modifications, were practically unchanged until 1830, when a charter which had been prepared by a convention composed of delegates chosen by the citizens in 1828, was adopted by the Legislature and ratified by the people without change. Another city convention attempted in 1846 to again revise the charter, but did not succeed, although the Legislature in 1849 and 1853 adopted many of the recommendations made by the convention. In 1861 the governor appointed a commission to revise the city's charter, but the Civil War broke out, public attention was distracted and the recommendations were never carried out. In the meantime, however, the charter had been amended by the law of 1857, and these amendments remained substantially in force

until 1870, when they were altered under the so-called Tweed Charter.

A charter drafted by the Committee of Seventy, in 1872, was passed by the Legislature, but vetoed by Governor Hoffman. But in the following year a charter, which was a compromise between the Tweed measure and the Committee of Seventy's plan, was passed. It effected many changes, among them a modified form of minority representation in the Board of Aldermen, which still possessed important powers. Without radical change this charter was incorporated into the consolidation act of the laws of 1882, and the charter provisions of the consolidation act continued in force until the enactment of the first Greater New York charter of 1897. The basis of consolidation was formed on this act, but as neither the charters of old New York nor Brooklyn were adapted to the new form of government, the Charter Commission was obliged to find a plan, which, while preserving as many as possible of the provisions of the older charters, should, nevertheless, furnish a new form of government adapted to the needs of all the boroughs. The charter of 1897 was amended in 1901, and it is this charter that is now in force.

The story of Brooklyn's charter goes back to the grant made by Governor Thomas Dongan, in 1686, to certain freeholders and inhabitants of the town "commonly called Breuckelen." The new government, however, was not that of either a city or a village, and it was not till 1816 that the village of Brooklyn was incorporated, and it was not until 1834 that it became a city. From time to time its charter was changed to meet its requirements. Especially was this true in the years 1854, 1873, 1880 and 1888. In 1890 many radical changes in the charter were made by the Legislature, one of them being the vesting in the mayor the sole power of appointing heads of departments, except those of finance and audit. Thus, it will be seen that at the time of the passage of the act providing for the appointment of the first charter commission to prepare the charter for the greater city, the people of the old Cities of New York and Brooklyn were still under ancient grants from the Netherlands and Great Britain, and subsequent acts of the State Legislature. The other districts of the consolidation act—Long Island City, Flushing, Jamaica, New Brighton, Newtown and the communities of Queens and Richmond—all had separate charters of distinct historic origin. It was for these communities of widely diverging government that the commission of 1896 was appointed to frame a general charter that should answer for them all. They had one point fixed firmly in their minds—the creation of the borough system, with local improvement boards, a board of public improvement, a mayor, controller, corporation counsel and the departments—Water Supply, Highways, Street Cleaning, Sewers, Public Buildings, Lighting and Supplies and Bridges. Aside from this, the idea of the charter was in a chaotic condition.

## Governor Nicolls' Charter

(Issued June 12, 1665.)

Whereas, Upon mature deliberation and advice, I have found it necessary to discharge the form of government late in practice within this His Majesty's town of New York, under the name and style of Schout, Burgomasters, and Schepens, which are not known or customary in any of His Majesty's dominions. To the end that the course of justice for the future may be legally, equally and impartially administered to all His Majesty's subjects as well inhabitants as strangers. Know all men by these presents that I, Richard Nicolls, Deputy Governor to his Royal Highness, the Duke of York, by virtue of His Majesty's letters patent, bearing date the 12th day of March in the sixteenth year of His Majesty's reign, do ordain, constitute and declare that the inhabitants of New York, New Harlem and all other His Majesty's subjects, inhabitants upon this island, commonly called and known by the name of Manhattan Island, are and shall be forever accounted, nominated and established as one body politic and corporate, under the government of a Mayor, Aldermen and Sheriff; and I do by these presents constitute and appoint, for one whole year, commencing from the date hereof, and ending the 12th day of June, which shall be in the year of our Lord, 1666; Mr. Thomas Willet to be Mayor, Mr. Thomas De La Vall, Mr. Olaffe Stevenson, Mr. John Brugges, Mr. Cornelius Van Ruy-

ven and Mr. John Lawrence to be Aldermen; and Mr. Allard Anthony to be Sheriff; giving and granting to them, the said Mayor and Aldermen, or any four of them, whereof the said Mayor or his Deputy shall be always one, and upon equal division of voices, to have always the casting and decisive voice, full power and authority to rule and govern as well all the inhabitants of this Corporation as any strangers, according to the general laws of this government, and such peculiar laws as are or shall be thought convenient or necessary for the good and welfare of this His Majesty's Corporation; as also to appoint such under officers as they shall judge necessary for the ordinary execution of justice. And I do hereby strictly charge and command all persons to obey and execute, from time to time, all such warrants, orders and constitutions as shall be made by the said Mayor and Aldermen, as they will answer the contrary at their utmost peril; and for the due administration of justice according to the form and manner prescribed in this commission by the Mayor, Aldermen and Sheriff, these presents shall be to them, and every of them, a sufficient warrant and discharge in that behalf.

Given under my hand and seal, at Fort James, in New York, this 12th day of June, 1665.

RICHARD NICOLLS.

## Creating the Greater City

The act which created the present greater city, passed over the vetoes of the Mayors of New York and Brooklyn, and became a law May 11, 1896, with the approval of the Governor. Pursuant to its provisions, Governor Levi P. Morton, on June 9, 1896, appointed a commission to draft a Charter, the appointees being Seth Low, Benjamin F. Tracy, John F. Dillon, Ashbel P. Fitch, Stewart L. Woodford, Silas B. Dutcher, William C. De Witt, George M. Pinney, jr., and Harrison F. Moore. Thomas F. Gilroy was subsequently appointed in place of Ashbel P. Fitch, resigned. Further members of this Commission by act of the Legislature were Andrew H. Green, president; Campbell W. Adams, State Engineer; Theodore E. Hancock, Attorney General; William L. Strong, Mayor of New York; Frederick W. Wurster, Mayor of Brooklyn, and Patrick J. Gleason, Mayor of Long Island City.

Later in the same month the Commission met and decided upon the following officers: President, Benjamin F. Tracy; Secretary, George M. Pinney, jr. William C. De Witt, John F. Dillon, Thomas F. Gilroy, Seth Low, Andrew H. Green, Benjamin F. Tracy and George M. Pinney, jr., were chosen as a committee to draft the Charter. On February 13, 1897, this proposed Charter was submitted to the Legislature. The bill embodying it was reported by the Committee on Cities, with amendments, and it was finally passed by the Legislature, with the

acceptance of the Mayors of Brooklyn and Long Island City, but without the acceptance of Mayor Strong. It became a law with the approval of the Governor, May 4, 1897.

The next step in the development of the Charter was the result of an act passed by the Legislature and approved by Governor Roosevelt, providing for the appointment by the Governor of fifteen persons, who should report to the Legislature such proposed legislation as an examination into the working of the Charter, previously adopted, might suggest. Governor Roosevelt accordingly selected the following gentlemen to act upon this Commission: George L. Rives; George W. Davison, Franklin Bartlett, Charles C. Beaman, John D. Crimmins, George Cromwell, William C. De Witt, Frank J. Goodnow, Isaac M. Kapper, Edgar J. Levey, James McKeen, Alexander T. Mason, Charles A. Schieren, Henry W. Taft and James L. Wells. This Commission, with Mr. Rives, as President and Mr. Davison, Secretary, presented a revision of the Charter in the form of an amendatory act, which, after some changes by committees of both Houses was passed by the Legislature, vetoed by the Mayor of New York, repassed by the Legislature, and approved by the Governor on April 22, 1901. This new Charter went into effect January 1, 1902, and is known as Chapter 466 of the Laws of 1901.

## REPORT OF

## The New York City Charter Commission

DATED MARCH 8, 1909.

*To the Legislature:*

The Charter Revision Commission of 1907 made its report to the Governor on December 1 of that year. The report pointed out the confused condition of the law affecting the city, analyzed the city government, and recommended various amendments.

On April 13, 1908, the legislature passed an act providing for the creation of a new commission to be known as "The New York Charter Commission," to be appointed by the Governor and to consist of fifteen persons to serve without compensation. The act defines the duties of the Commission in the following language: " \* \* \* to inquire into the local government of the city of New York and the counties contained therein with power to investigate the manner of conducting and transacting business in the several departments, boards and offices thereof, the effect and working of the charter of Greater New York and the acts amendatory thereof, and supplementary thereto, and of any and all other acts relating to said city, and to suggest such legislation as it may deem advisable with respect thereto. Said Commission may in its discretion draft and submit with its final report a new charter and an administrative code for the city."

The Governor, on April 21, 1908, appointed the Commission, eight of the appointees having been members of the Charter Revision Commission of 1907.

The Commission organized on the 27th day of April, 1908, and at once took up for consideration the present condition of the city government in connection with the report of the Commission of 1907. Some time was necessarily consumed in study of that report by the members of the present Commission who had not served upon the former one. After thorough consideration the Commission has determined, besides reporting its conclusions and recommendations, to present a draft of a charter and of an administrative code, the former of which accompanies this report, the latter of which is in course of preparation and will be submitted at a later date. The two may, we believe, be advantageously made complementary parts of a single statute.

In order to facilitate its work, the Commission was divided into sub-committees to each of which was referred the duty of investigating and reporting upon the manner of conducting and transacting business in the departments referred to it. Throughout the summer the chairman or other members of the sub-committees pursued their work and this preliminary task was carried on unremittingly until in September it had progressed to a point which permitted the Committee on Draft to begin the preparation of the charter, chapter by chapter. From October 1, 1908, until the

date of the report that Committee met every night with the exception of Saturdays, Sundays and holidays, and the evenings on which the full Commission was convened, and has repeatedly held sessions during the daytime.

In the preparation of each individual chapter and title the Committee on Draft in every instance through one of its own members or one of the other sub-committees, carefully investigated the actual operations of each department and bureau, and considered the statutory provisions applicable thereto with such officers and employees as were believed to be best qualified to explain the prevailing practice and illustrate the actual administrative interpretation of the charter. It was also sought to discover how far actual organization conformed to the letter of the law, how far the practice was the result of administrative interpretation, and to what extent it was a spontaneous development. Particular care was exercised to ascertain how far administrative practice reflects the law as well as the degree to which the departments had found it necessary to disregard the statute because either of difficulty in its application or of the obsolescence or unintelligibility of its provisions.

The various committee investigations, although long and tedious, were absolutely necessary if the law and the facts were to be made to correspond, and the law were to be relieved of obsolete, unintelligible and systematically disregarded provisions. A particularly long and precise investigation was required concerning the operations of the finance department, the sinking funds, the dock department, the police department, the health department, the charities department, the department of education, the department of taxes, the borough presidents and the board of assessors, and much time was necessarily spent in investigations of provisions of the existing charter dealing with the city's bonds and obligations, particularly assessment bonds, revenue bonds, special revenue bonds, and general fund bonds.

Inasmuch as the Commission was charged with the investigation of the effect and working of the charter, and all other acts relating to the city and was empowered to report such legislation as it might deem advisable in the premises, it became a matter of primary importance to consider constitutional limitations upon the city's borrowing capacity. The Commission through a sub-committee made as exhaustive a study of the subject as was possible within the time and means at its disposal, and copies of its two reports to the Governor in relation to the subject are hereto annexed. There is also inserted in the proposed charter a section providing so far as the legislature may, a method for calculating the borrowing capacity of the city, the application of which, in the judgment of a majority of the Commission, should render it impossible for the city

to find itself again in the position in which it now is—viz., without any other standard for the determination of its debt-incurring power than the fluctuating opinions of the administration for the time being. If the legislature have the power to provide such a method, the entire Commission concurs in the wisdom of formulating a rule which, by requiring stated reports by the board of estimate and apportionment, may serve as a partial restraint upon the inclination to reckless expenditure.

The legislative authorization to report a charter and an administrative code the Commission interprets as an authorization to report a charter new in form with such substantive changes as it deems necessary to render government economical and efficient. Hence the effort of the Commission has been to conform law with wise administrative practice; to eliminate the purely obsolete; to clarify the text; to harmonize the law with administrative interpretation; to efface the redundant and establish coherence. It has sought to follow the lines of the historical development of the existing charter, with due consideration for the actual experience in charter history of other American cities with similar problems; to make no radical or purely experimental changes; to preserve existing phraseology where it was clear or had received a definite meaning from the courts; to bring all matter relating to the same subject under one title; to correlate and coordinate different departments and bureaus, and, so far as practicable in the time at its command, to substitute order and symmetry for the present confusion and cross division of powers and duties and to give the law, in a word, an intelligible, logical form. One purpose has been to eliminate from the charter much general statutory law which is found both in the charter and in the revised statutes. The magnitude of this entire undertaking will be appreciated by careful study and analysis of the Commission's work, in tracing to their several origins numerous provisions of the existing charter, in correlating diverse sections referring to the same subject-matter, and in formulating the results in simple yet comprehensive language.

The proposed charter contains all provisions which touch upon the corporate powers, rights and franchises of the city, the city's obligations and the sinking funds established for their protection, and all substantive law of a constitutional character relating to the organization of the municipality as a self-governing community, and as the representative of the state in the administration of general law within the municipal jurisdiction. The fundamental changes are comparatively few, and will readily be apprehended. The chief value of the Commission's work and the feature of it which has required the most time and care is its attempt to give intelligible and coherent shape to the entire charter and to separate the organic or structural mat-

ters of city government from adjective or administrative details. In making this separation it has been actuated by the desire to formulate a charter of a permanent or abiding nature, for it recognizes that the administrative code will doubtless require frequent amendment, either for the adoption of improved methods or in response to successful administrative practice. The code in the nature of things should be a more fluid body of law, susceptible of change and evolution without change or alteration of the charter proper. The advantage of this dual statute will, we think, be at once apparent to the legislature and the people. The charter can and should be placed in all hands and will be readily comprehended. The administrative code, not being of such fundamental importance, bears a closer resemblance, for instance, to the ordinances of the Council, and belongs in a somewhat larger way to that body of adjective law which includes local ordinances and regulations. It is, therefore, not of such general interest or fundamental importance as the charter, but is of special and particular interest as the embodiment of details affecting the conduct of city or departmental business.

Our report, therefore, will assume the form of two draft bills which illustrate as perfectly as the limit of time and the measure of our strength and ability can do, the precise form of legislation which we would recommend, as well as the precise content of that legislation; and the two draft bills should be treated not as final propositions for adoption but as recommendations in bill form so presented that if approved by the legislature they may be treated as a whole, and that if the legislature disapproves of any particular matter, its substitute may be promptly formulated and fitted into the general scheme.

Because of the flexibility of the code and the ease with which it may be modified to conform with legislative decision upon the charter, and as well because of lack of time to frame to the full satisfaction of the Commission the several code chapters, it has been deemed wise to defer the presentation of the code until the legislative committee shall have reached their conclusions.

The charter may be considered independently of the administrative code, but the converse proposition is not true. The legislature itself cannot well take up consideration of the code until it shall have passed upon the charter; but when that has been done those parts of the code which have been drawn to conform with our proposed charter can readily be revised so as to harmonize the administrative law with the charter as finally adopted by the legislature.

The charter will consist of 75,000 words; the present charter contains over half a million. The administrative code will be no larger than the charter. The charter and code together will be about one-quarter the volume of the present charter. The charter contains 299 sections; the code will contain about the same number. The present charter contains 1620 sections.

For the purpose of facilitating the study and appreciation of the draft charter, and in order to point out the character, scope and purpose of each chapter, and to indicate the extent to which changes or innovations of a fundamental character have been recommended, we call the attention of the legislature to the following analysis.

#### GENERAL PROVISIONS REGARDING THE RIGHTS AND FRANCHISES OF THE CITY.

This chapter contains the grant to the city of corporate power, of franchises and of power of local administration, continues the guarantee of all pledges and securities for the city's liabilities, regulates the grant of franchises to use the streets and waters, and besides provis-

ions with regard to grants of land under water, contains sections relative to actions by and against the city, and fixes the geographical boundaries of the boroughs.

In its draft the Commission has made use of the elaborate description of municipal powers contained in the charter of cities of the second class drawn by the late Judge Earl. Inasmuch as some of the grants to the city originated in royal charters and have been confirmed by the state constitutions, provisions have been added to ensure the continuance of all rights, privileges and powers heretofore vested in the municipality.

In the present charter words are defined with needless frequency and not always in identical language. The definition of "Franchises" in our Chapter II has been predicated upon definitions found in the jurisprudence of our own state and of other states and in the decisions of the federal courts, and in the Special Franchise Tax Law.

Consents to the exercise of franchises to use the streets and waters of the city are treated in section 7, which is practically identical with section 73 of the present charter. It is reported in this form not because it meets with the approval of the Commission, but because, whenever and however amended, it should conform to the amendments of the Rapid Transit Act of 1891 and of the Public Service Commissions Law, which, it is understood, will be considered by the legislature at the present session.

In section 10 slight changes have been made in the phraseology of the corresponding section of the present charter (section 86). The substantive change in the section would prohibit grants of land under water within the city to the riparian proprietor without the city's consent, and would limit grants by the commissioners of the land office to riparian proprietors upon terms and conditions satisfactory to the city acting through its board of estimate and apportionment. These changes embody in statutory form the principle frequently enunciated by the courts that "riparian owners have no right to prevent important public improvements upon tide water for the benefit of commerce," and that "when any public authority conveys lands bounded by tide water it is impliedly subject to those paramount uses to which the government as trustee for the public may be called upon to apply the water front for the promotion of commerce and the general welfare" (Sage vs. Mayor, 154 N. Y., 79-80). The effect of our change will be that riparian owners cannot acquire such grants without the approval of the city and later on compel the city, in the event of the requirement of lands under water for the development of the water front, to undertake condemnation proceedings in which, or to enter into contracts by which, it would be obliged to pay exorbitant prices—many times what riparian grantees shall have paid the state.

#### GENERAL PROVISIONS REGARDING THE DUTIES OF OFFICERS.

This chapter contains those general provisions regarding the duties of officers and employees which are applicable to all alike. These provisions are, generally speaking, identical with the present law, except

First: Under the present law no member of the uniformed force of the Police or Fire Departments can be nominated for an elective office, and failure to decline such nomination at the time and in the manner provided is declared to vacate his office. This principle is extended to all persons holding appointive office or employment under the city government.

Second: The prohibition which forbids

employees of certain departments of the city government to participate in associations organized for the purpose of contributing funds to affect legislation in their own behalf, or to promote such legislation, is extended to apply to all officers and employees of the city.

Third: In aid of the Civil Service, and of its divorce from politics, an entirely new subdivision is submitted, which provides that, at the risk of forfeiture of his office, "No person in the classified civil service of the city shall be an officer or member of any political committee, or a delegate or alternate to any political convention."

By proposed section 23, "No elective officer who shall have been removed under any provision of this act shall be eligible to election or appointment to fill the vacancy caused by his removal." This would prevent the reappointment of a removed officer to the vacancy caused by his own removal.

Another recommendation requires the payment into the city treasury of all fees and emoluments received by any officer or employee of the city under any statute. This would put an end to the fee system so far as remnants of it still exist in Manhattan, Queens and Richmond. If this recommendation and certain other recommendations in the Board of Estimate and Apportionment chapter be adopted, all salaries and compensation will be paid out of budgetary appropriations, and the whole subject of salaries be brought within the exclusive control of the Board of Estimate and Apportionment. The most important feature of this recommendation is to bring the appropriations for the offices of the several district attorneys clearly within the budgetary powers of the Board of Estimate and Apportionment.

#### THE COUNCIL.

If the recommendation of the Commission be adopted, the Council should, it is hoped, become a more important factor in local government, with large and efficient legislative power. What constitution of the Council would tend most directly and immediately to secure in it the largest measure of fitness, and to secure for it the greatest efficiency, is a question to which the Commission has given much deliberation. With these considerations in view we recommend that the Council be reduced from its present number, seventy-three, to thirty-nine, distributed as follows: To Manhattan, fourteen; to Brooklyn, eleven; to The Bronx, six; to Queens, five, and to Richmond, three. This distribution will not materially alter the relations to each other of the several boroughs in the Council, but it will have the effect of making the Council districts about twice as large as at present, except in Richmond and Queens, and will insure all those advantages for business purposes which a smaller body possesses in contrast with a larger one, without materially disturbing the present proportion in representation.

The city's experience with an unpaid board of education has been so satisfactory that we recommend the abolition of the salary of councilmen in the belief that, if the office be removed from the field of small pecuniary political prizes, it will no longer be utilized as an adjunct to the organized political machinery of parties. It should cease to allure municipally paid agents of local political leaders, but should attract those seriously interested in the solution of municipal problems. The Commission favors return to the policy of requiring councilmen to be residents of the districts which they are elected to represent. Heads of departments continue to have seats in the Council and to be entitled to a hearing, although not to a vote.

The president of the Council is also vice-mayor and a member of the board of estimate and apportionment. His

duties are or may be of a triple nature. His office is of great importance and the salary should be ample to attract the same degree of character and ability as the mayoralty. The Commission has, therefore, recommended that the salary be fifteen thousand dollars a year.

A cardinal departure has been made from the existing charter in a broad grant of legislative power to the Council, thus following what the Commission conceives to be the best of precedents in recent charters. A comprehensive grant within thoroughly defined limitations is in its judgment preferable to a detailed enumeration of specific powers. The broad grant includes everything within the circumscribed sphere, yet confers no jurisdiction beyond it.

This ampler ordinance making power, among other things, makes the Council the medium for the correlation and co-ordination of all ordinances and all departmental regulations. It may also amend certain specified sections of the administrative code which are so local in their operation that they may properly be altered by the city legislature, thus relieving the state legislature from consideration of unnecessary administrative detail.

Following the course of recent evolution, we remove from the Council every vestige of power over grants of franchises and have transferred all such powers to the board of estimate and apportionment. The board of aldermen now has power to authorize the issue, for certain purposes, of revenue bonds not exceeding the sum of \$2,000,000 a year, and the abandonment of this practice is recommended for reasons which will later be stated. The power now possessed by the board of aldermen to fix the tax levy and reduce specific items in the budget is continued in the Council.

### THE EXECUTIVE.

Few material changes are proposed in this chapter. We recommend, however, that no person shall be eligible for the office of mayor unless he shall have been a resident of the city for at least ten years preceding his election, and that the salary be increased to twenty-five thousand dollars a year. The present term of four years is continued. There is doubt whether the president of the board of aldermen, in the event of vacancy in the mayor's office, would, under the existing charter, become mayor for the full term. This is removed by our provision that an election to fill the vacancy be held at the annual election following its occurrence—the president of the council to be mayor ad interim.

The mayor will continue to appoint and at pleasure remove all heads of departments, certain commissioners and members of boards.

The Municipal Courts' act should be amended to authorize the judges of those courts to appoint marshals, under civil service rules. The appointment of a marshal by the mayor is in the nature of a pure survival, without reason in logic or policy for its continuance. There is need for this minor change, which would tend to stop practices from which poor and inconspicuous litigants suffer seriously.

We recommend that the mayor be authorized to appoint an advisory board, to act in conjunction with the board of estimate and apportionment in devising and formulating plans for the comprehensive development and improvement of streets and parks. This advisory board would be distinct from the Municipal Art Commission, the existence of which is continued.

The duties of commissioners of accounts will be performed by a commissioner of inquiry—a title which, more fully than the present title, indicates the functions of this office. He may appoint and remove two deputies, one, an attorney and counselor at law. The commissioner and his deputies may investi-

gate any department of the city government, but subject to the mayor's power to limit the scope of such investigation. The mayor will thus retain, but under better guarantees of efficiency, the right of executive investigation into the operation of all departments.

### BOARD OF ESTIMATE AND AP- PORTIONMENT.

A majority of the Commission favor the continuance of a board of estimate and apportionment consisting of the mayor, the president of the council, the comptroller, and a borough president to be elected from each borough. A marked change in the existing system is made by the withdrawal from borough presidents of all administrative functions. The experiment of electing borough representatives as financial officers to vote appropriations, and as administrative officers to spend appropriations voted to themselves, was violative of two fundamental principles inherent in our system; namely, that appropriating officers should never be expending officers and that administrative officers should be, not elective, but appointive, and be at all times clearly within the sphere of unitary executive responsibility. Relieved of administrative duties which now make their offices centers of political patronage, the borough presidents will be required to give their undivided time and attention to the work of the board, which should become and be the great financial executive committee of the city. From the standpoint of the city's fiscal requirements, this board is the most important organ of the city government. Its members should be men of signal ability, chosen because of their peculiar fitness for the performance of their duties. To aid in insuring the election of borough presidents of high capacity and of conspicuous position in their respective communities, it is recommended that the salary be ten thousand dollars a year.

We propose to create under the board several new bureaus, for the more perfect co-ordination of the city business, greater protection of its rights, better preservation of its property, the establishment of large economies in its purchases and of a comprehensive and systematic plan for its growth. Plans for city improvements would fall within the province of the bureau of public improvements and engineering; franchises would be cared for by the bureau of franchises; the city's real property now valued at upwards of eight hundred and fifty million dollars would be under the charge of the bureau of real estate; and all claims against the city, instead of being adjusted in the finance department, would be first submitted to the bureau of claims. The bureau of salaries is to classify and grade officers and employees, their wages and salaries, and powerfully re-enforce the protection furnished to public servants by the Civil Service Law. The bureau of statistics and publicity would have charge of the City Record and with material economy to the city would print and publish departmental reports and all public advertisements.

The bureau of supplies is designed as a central purchasing agency for all supplies required in common by all city departments; its functions would be developed through use and experience until it assumed proportions entitling it to become a co-ordinate department of the city government. This natural evolution would, we think, be facilitated by the creation of a bureau under flexible regulations.

The Commission is firmly convinced that the board of estimate and apportionment should exclusively fix all appropriations for salaries, subject, of course, to their reduction by the Council. Exclusive of payments under the "prevailing rate of wages" law, salary appropriation of at least thirty-five million dollars a year are fixed by the legislature.

The situation is unjust to taxpayers, and is anomalous and exceptional. The new charter proposes the repeal of all mandatory sections of existing law relative to salaries of policemen, firemen, school teachers, heads of departments and bureaus, and all other appointive city and county officials. If the legislature should determine to continue the maxima and minima provisions of the so-called "Davis" law, no modification of the educational chapter of the charter would be necessary, for this, in common with other chapters, contains only the structural or organic. The subject of teachers' salaries is treated in the educational chapter of the administrative code, which can easily be recast if the Davis law is to be continued; and this fact illustrates the statement heretofore made in this report, that the provisions of the code may readily be adapted to conform with such changes (if any) as the legislature may make in the proposed charter.

In support of our conviction that exclusive control of local salaries should be left to the city, we submit that neither successful nor economic administration of the city's affairs will be attained so long as the legislature usurps a power that belongs of right to the city, thereby relieving appropriating officers of responsibility for more than one-half of the expenditure for salaries and wages. New York City, in common with other and less heavily burdened municipalities, ought to be permitted, through its duly elected representatives, to determine the compensation of all its officers and employees. It is the only city of importance in the state which is not free to fix teachers' salaries. Existing salaries remain unchanged by the draft charter which provides that they shall remain as at present unless and until changed by the board of estimate and apportionment.

We bespeak special attention to the section of the proposed charter respecting the form of the budget. Under the present charter a taxpayer would find it almost impossible to discover for what matters the budget should make provision. Yet few things are more important to him than to know that his servants, in making appropriations, are not overstepping law. For the first time in the city's history reference to all matters which are the subject of appropriations is made in one proposed section. One distinct advantage of this change is that it serves to educate the taxpayer to discriminate between current expenses and capital outlays. All annual expense of maintaining the city government should (and but for archaic sinking funds would) be paid from the city's revenues and its receipts from taxation, whereas all expenditures for permanent improvements, including the acquisition of land, should be met by issues of corporate stock or, whenever the city may be reimbursed by means of assessments upon property especially benefited, by the issue of assessment bonds. A sharp distinction is made in the new charter between corporate stock and assessment bonds, and between corporate stock and assessment bonds on the one hand and special revenue and revenue bonds on the other; the latter classes of obligations being mere devices for anticipating the collection of income from taxation. The rule that current expenses shall be paid out of taxation allows no exception. Hence, we provide that all the annual expenses of the dock department shall, like those of other departments, be provided for in the budget and met by taxation, thus discontinuing the evil practice of issuing corporate stock for the running expenses of the dock department.

The budget should include also a detailed statement of all receipts of the general fund and of all sinking funds, the surplus income of which eventually finds its way into the general fund. The city will thus have a scientific budget of receipts and expenditures.

## SINKING FUNDS.

Before a draft of the chapter on Sinking Funds was made, a history of the sinking funds was prepared, in order that the Commission might more intelligently discuss existing provisions. The law of the sinking funds remains substantially unchanged. The old pledges of the city's revenues for the payment of its creditors are preserved inviolate. There has been a rearrangement of the order of sections, resulting in more consecutiveness and coherence, and for the first time the actual sinking funds of the city have been enumerated. This chapter should enable the reader to understand the nature and purpose of the various funds. Obsolete provisions and solecisms of expression have been eliminated, but no contractual pledge has been infringed.

The Commission believes that it would be possible to refund the entire funded debt of the city, exclusive of the several water debts, at a satisfactory rate of interest, which would permit of the abolition of the several sinking funds. Many sources of revenue might be increased to the city's gain, if they were not to be locked up indefinitely in sinking funds, and some might perhaps be reduced in the interest of the city and the taxpayer.

The theory which once made sinking funds prevalent has long since been abandoned. Provision for meeting all funded obligations at maturity should be made by raising by taxation the annual interest upon these obligations and the requisite amortization instalments. Substantially all the sinking fund revenues consist of the city's own obligations; its creditors therefore have in the last analysis no other security than the city's own promise to pay. If the sinking fund system were to be abolished and the payment of the debt provided for by amortization methods, the present anomalous and artificial system of withdrawing surplus revenues from the sinking fund by the issue of general fund bonds to that fund could be discontinued. This is a method of preventing by indirection undue increase of these funds, and in effect is an evasion of those provisions of law which require their maintenance intact for the City's creditors.

## BONDS AND OBLIGATIONS.

Charter provisions regarding corporate stock and other city bonds have not the sanctity of sinking fund provisions. The Commission has here made substantive changes in the law. It has made a clear line of demarkation between corporate stock, assessment bonds, special revenue bonds and revenue bonds. Corporate stock can never be issued to pay current operative expenses if the Commission's theory be adopted. To insure better prices and better interest rates for the city all bonds must be sold after public advertisement, but in case of special emergencies, of which the board of estimate and apportionment is sole judge, revenue bonds or special revenue bonds may be sold without advertisement.

The Commission proposes that corporate stock shall be issued for improvements only. Assessment bonds, although in part eventually convertible into corporate stock, are primarily issued to pay for public work for which the city may be reimbursed by assessments collected from property especially benefited thereby. Failure to heed the proper distinctions between the several classes of city obligations has led in practice to the use of one form of bond where a different kind only was proper, and to confusion of the funds from which bonds of different kinds should be paid.

We have retained the provisions regarding general fund bonds, but have provided in the board of estimate and apportionment chapter that the interest on such bonds shall be defrayed from annual taxation—our purpose being that

the budget shall reflect all current expenditures, of which interest on bonds held by the sinking funds is undoubtedly one.

## THE ADMINISTRATIVE DEPARTMENTS.

These are treated in a single chapter under particular titles. In Title I are all administrative provisions applicable alike to all departments. These provisions are now scattered throughout the present charter, and are repeated in different administrative titles, and sometimes even in different sections applicable to different bureaus provided for in the same title.

### FINANCE DEPARTMENT.

The Finance Department of late years has become the repository of so many functions that it has grown beyond reasonable and workable proportions. It now exercises many powers that with greater propriety should be under the control of the Board of Estimate and Apportionment. Accumulation of functions in the Comptroller has at times given him ascendancy over the Mayor in respect of purely administrative matters, but without any corresponding responsibility for administrative results. The department is amorphous and chaotic. In order to readjust relations between it and other departments we recommend that the Bureau of Claims be transferred to the Board of Estimate and Apportionment and that a Bureau of Real Estate and a Bureau of Franchises be created therein; that the chamberlain be made the head of an independent department to be known as the city treasury department, in which there shall be three bureaus—that of the city treasury, that of the collection of taxes and revenues, and that of licenses. The chamberlain's office at present is nominally a bureau in the finance department; but the chamberlain is actually an independent officer appointed by the mayor like other heads of departments. Our proposed changes make the city chamberlain a more efficient factor in the administrative government, and secure for revenue collections and for licenses attention impossible under the present organization.

We favor a bureau of licenses in lieu of a department, as this branch of the city's business has not yet developed to proportions justifying the erection of a co-ordinate department. But the entire matter of licenses should fall in one bureau for systematization of the license system and treatment of the matter of licenses and permits in such manner as largely to increase the sources of revenue. The adoption of this recommendation should go a long way toward making successful the effort to secure an adequate estimate of revenues from sources other than taxation, thus tending annually to relieve the tax levy.

### THE PENAL SECTIONS OF THE CHARTER.

The present charter contains fully 170 sections which, being penal in their nature, should disappear from the charter proper. Many are repetitions of provisions of the Penal Code or Code of Criminal Procedure, and are altogether needless in the charter. Others so nearly repeat the provisions of one or the other code as to leave the law in doubt, because of the question raised as to which is controlling. Others, in whole or in part, are in neither the Penal Code nor the Code of Criminal Procedure, yet in one or the other code they undoubtedly belong. All penal charter sections have been segregated, and we recommend their re-enactment in a separate chapter of the administrative code until such time as they shall have been properly cared for in the Penal Code or Code of Criminal Procedure. A few penal sections

touching matters of peculiar gravity are retained in the proposed charter, for the sake of greater clearness and in order that the charter may adequately depict the entire plan of city government.

Sections of present administrative titles which are repetition of matter already generally provided for in the Public Officers' Law have been eliminated because they encumber the charter and make it less intelligible. These remarks apply to all of the administrative titles.

### THE POLICE DEPARTMENT.

In this department we recommend that the Commissioner must appoint a deputy in the borough of Brooklyn; and that to a deputy commissioner who shall be a counselor at law of five years' standing be confided the conduct of all police trials. The police commissioner is to frame rules of practice for police trials, to be approved by the Appellate Division of the Supreme Court in the First Judicial Department, and is to review the trial commissioner's findings and fix the punishment. No writs of certiorari shall hereafter issue to review his determination, but it may be reviewed by an appeal to the Appellate Division, whose decision shall be final. This procedure should render trials simpler, juster and more expeditious, and guarantee all members of the force an absolutely fair hearing by a competent officer, under specific rules permitting appeal to a satisfactory superior tribunal. It would have the effect of eliminating the injurious consequences of arbitrariness and individual temperament which have for years past been a constant cause of complaint in the disciplinary administration of the department.

We have also recommended that a schedule of penalties be required to be fixed by the commissioner, which shall be just and may be equally applied to all, so as to make it impossible that like offenses tried by different persons or by the same person at different times may result, merely as a matter of temperament or bias, in a punishment at one time and as against one individual which in no serious manner affects his career in the department, while, at another time or as against another individual, the punishment is such as to make all advancement practically impossible.

In this connection we may add that we recommend the application of a similar system in the trial of members of the fire force.

The Commission with substantial unanimity recommends the appointment of a superintendent of police from the uniformed force (following the very successful practice of the fire department), who shall be the executive head of the uniformed force. But the superintendent should be removable by the commissioner.

Investigation demonstrates that the reduction of the minimum age at which persons may enter the police force has worked to public disadvantage, and we therefore recommend that no person hereafter be eligible for membership in the force until he has reached the age of twenty-five years. Younger men cannot safely be entrusted with the performance of the very serious duties of peace officers, and many of the administrative difficulties now encountered in the department are due to the increasing number of immature policemen.

Minor changes have been proposed, generally upon the well-justified recommendations of the commissioner or of members of the force. They will, however, appear in their proper place in the draft charter, and will be explained in detail in the notes accompanying it.

### HEALTH DEPARTMENT.

In the substantive law of the health department we recommend but one change—that the office of coroner be abolished, and that the duties of coroners in making post-mortem examinations

hereafter be performed by a chief medical examiner in the department of health and his assistants, and that inquests be conducted by city magistrates. In making these recommendations the Commission has considered chapter 577 of the Laws of 1902, by which the office of coroner in the county of Erie was abolished.

We would also make it obligatory upon the department to maintain a bureau in each borough in which the records of births, marriages and deaths in that borough should be kept—thus overcoming the objections convincingly urged to the present system by the medical profession throughout the entire city. These, however, being administrative matters, will be treated in a supplementary report on the administrative code.

#### CHARITIES DEPARTMENT AND BELLEVUE AND ALLIED HOSPITALS.

Provision has been made for municipal supervision or maintenance of an adequate ambulance service in all the boroughs.

#### BOARD OF EDUCATION.

We recommend the abolition of the board of education as a separate corporation. No reason exists for its continuance as a separate corporate entity, and none has been urged by representatives of the board. On the contrary, they appear to favor its abolition. In obedience to advanced educational opinion, we would reduce membership of the board to fifteen—a change which should insure increased efficiency. We retain the local school boards, the number of which is made to correspond with the number of council districts, but relegate the details of their constitution and functions to the administrative code. We have made the tenure of the administrative, the supervising and the teaching staff to continue during good behavior and competency. We have continued the two colleges which constitute the capstone of the city's educational system. All provisions of the present charter respecting the appointment of principals and teachers, and the method of licensing teachers, will, with slight changes, find place in the administrative code, in which may be inserted also such provisions (if any) as the legislature may enact respecting salaries of the teaching staff.

We may here add that since the passage of the Ahearn and Davis laws the annual expense per capita of the population for the maintenance of the city's public school system has been doubled, and we reaffirm our belief that the citizens of this metropolis and its board of estimate will never permit the educational system to retrograde for lack of adequate appropriations.

#### DEPARTMENT OF WATER SUPPLY.

We recommend that the department of water supply be deprived of all jurisdiction in respect of gas and electricity, which should be transferred to the department of street control.

We favor the abolition of the Croton Aqueduct Commission for reasons presented in the report of the Charter Revision Commission of 1907.

#### DEPARTMENT OF DOCKS AND FERRIES.

The law regarding docks and ferries is complex and chaotic. To reduce it to clear and intelligible shape, without substantive change or impairment of the city's rights, has been a work of difficulty requiring prolonged investigation. That part of the law which should properly be incorporated in the charter requires but few sections, and these, as recommended, involve no changes in the actual system. Many provisions of the present charter in the dock department title are purely administrative in character; the administrative code will re-

duce to order, system and intelligibility one of the most difficult titles of the present charter. The park department has control of part of the water front. Properly to delimit the respective jurisdictions of the dock and park departments upon the water front has required much research and the skilled assistance of the corporation counsel's office.

#### BUILDING DEPARTMENT.

This department existed prior to 1901, when the office of borough president was created, but it failed for want of executive unity due to the fact that it was an application of a combination of the board principle with a division of territorial responsibility. It was abolished in 1901, and the functions previously exercised by it were then divided among the borough presidents. The experiment has proved a signal failure, and we recommend the recreation of this department.

#### THE DEPARTMENT OF STREET CONTROL.

The Charter Revision Commission of 1907, whose report was before the legislature when the latter authorized the appointment of the present Commission, reported to the governor as follows:

"In the old City of New York, under the Consolidation Act of 1882, the Commissioner of Public Works had virtual control of all the street functions, except street cleaning. He had all the powers of the borough presidents, and in addition, many of the powers now exercised by the Commissioner of Water Supply, Gas and Electricity. It is probably true that the management of the water supply of the great city is too large a matter to be left to the control of a bureau. But it is possible so to coordinate the powers to be exercised with respect to the streets as to do away, if not wholly, at least largely, with much of the existing conflict of authority.

"With this object in view it has seemed to the Commission that a Department of Street Control should be created, with all the jurisdiction now vested in the borough presidents with respect to the construction and repair of streets, sewers, pavements and other structures, openings for all purposes in street surfaces, and encumbrances. In addition, it should exercise all street cleaning functions, have charge of lighting the streets, and be vested with all the powers and duties of the Department of Water Supply, Gas and Electricity, except such as relate to the water supply proper. In short, it should possess all authority and control over the streets except the regulation of traffic by the Police Department and the care of the water mains laid under the streets. It is worthy of consideration whether this department should not be charged with the physical work of laying and repair of all water mains, subject to the requisition and general supervision of the Department of Water Supply. \* \* \*

"The Commission strongly favors the creation of this department, to be presided over by a commissioner, appointed by the Mayor, with authority to appoint a deputy in each of the boroughs. \* \* \*

"Since, in the proposed redistribution of powers over the streets, conflict of authority may arise, provision should be made for the intervention of the Mayor as the final authority, to determine the matter in dispute, whether it be a question of precedence between contemplated improvements, the tearing up of a newly laid pavement, for purposes of subsurface construction, or other possible subject of conflicting jurisdiction.

"In any improvement or work involving the opening of a street surface, provision should be made for limiting the length or area of the surface which may be open at one time. This would prevent abuses which arise from the opening of long stretches of the streets

before the contractor or municipality is actually ready to proceed with the subsurface construction, or far in advance of the latter. Provision might be made for requiring work of this character to be conducted by night and day shifts in order to expedite it and limit the time during which abutting property may be injured and street traffic inconvenienced.

"The Commissioner of Street Control should be required, when making his annual departmental estimate, to base his estimate of the sums needed to maintain or repair the streets, upon a thorough and adequate inspection of their surfaces."

A majority of the Commission concurs in these views, and therefore recommends the creation of a department of street control vested with the powers conferred in sections 224 to 233 inclusive, thus concentrating in a single department under the city's chief executive all functions of street control now divided between certain appointees of the Mayor and the elected borough presidents for whose acts he is not responsible. The Department of Street Control will maintain the same administrative offices in the boroughs that the borough presidents now do, except in respect of the building department, and public facilities for doing local business will not be impaired.

#### FERRIES.

By original grants and confirmation in colonial charters, the former city of New York acquired a franchise covering all ferries.

The uniform practice of the city was until recently to lease its ferries for short terms to companies organized to operate ferries, or to railway corporations, like the Pennsylvania Railroad Company, the Central Railroad Company of New Jersey, the Erie Railroad Company and the Delaware, Lackawanna and Western Railroad Company. Within a few years the city has undertaken to operate two ferries directly; one, to Staten Island; the other, to Thirty-ninth street, Brooklyn. Municipal operation has been expensive in the extreme, the net loss on the Staten Island ferry alone being almost as large as the total contribution of Richmond County to the tax levy.

Five other ferries have been discontinued by their lessees, and the courts having in effect decided that the city received its ferry franchise for the benefit of its inhabitants, and must itself operate or compel its lessees to operate its ferries, it follows that if the city should finally be compelled to run them directly (as seems not unlikely) the loss in the near future in ferry operations may easily attain the sum of two million dollars a year.

Apart from the legal question of the city's obligation to run ferries which its lessees refuse to run at a loss, is the question of the proper method of defraying the cost of municipal operation. The cost of operation, and, of necessity, the resulting loss in the case of ferries municipally operated, are paid at present out of issues of corporate stock. The evil of this system is twofold; first, future generations are thus charged with present operating loss; and, secondly, the present generation is debarred pro tanto of the use of the city's credit for public improvements, inasmuch as its borrowing capacity is impaired by the use of its credit for current ferry expenses and ferry losses.

The practice is an outgrowth of conditions created by the city's sinking funds. The ordinance of 1844 pledged all ferry income to the sinking fund for the payment of interest upon the debt of the former city, and the surplus of the interest fund now finds its way into the sinking fund for the payment of the principal of that debt. At present ferry rentals are paid into the interest fund. The question arises whether the gross

Income from ferries, or the net income merely, belongs to the sinking fund. In our opinion only net income belongs to the fund. According to the decisions of the courts the city's ferry franchise is an integral thing. The city's ferry system should also be treated integrally, and rentals from these ferries should so far as needed be applied to meet losses on municipally operated ferries, and only the net rentals remaining after this application should go to the sinking fund. If on the other hand after the application of ferry rentals, a loss should still remain in ferry operations, that loss, like all current expenses, should be paid out of the tax levy. But as the loss for any year would be conjectural at the time of the making of the budget of that year, we propose instead that it be paid out of special revenue bonds redeemable from the tax levy of the ensuing year.

Payment of these operating losses out of proceeds of corporate stock is indefensible; the community should know from year to year just what the annual losses are, and this information should be discoverable from the budget. If ferry losses are payable out of taxation, the taxpayer will soon realize the significance of the loss and be prompted to devise a solution consistent with the interests of the city.

It must be borne in mind that the city is carrying on a ferry business exactly as a private corporation might do if it possessed similar franchises. The city in part operates its ferries directly; in part farms them to lessees, but its ferry business is as much one business as it would be if it were the business of a private corporation.

#### ACQUISITION OF REAL PROPERTY FOR PUBLIC PURPOSES.

The cost to the city of the acquisition of real property for public purposes has become a matter of scandal. The method of correcting the waste and extravagance of condemnation proceedings will require the most careful attention from the legislature. The proposed real property chapter contains only a few sections, merely granting to the city the right of eminent domain, in broad terms. In the chapter dealing with the issue of corporate stock, provision is made that it may be used to purchase existing franchises. In the chapter on the board of estimate and apportionment power is given to acquire property by agreement with the owner without resort to condemnation, and that such agreement may be made during condemnation proceedings, or even after an award, provided the amount paid shall not exceed the award. The present charter contains many obscure, conflicting and redundant provisions for the acquisition of real property for different public uses. The confusion is enhanced by special laws—for example, the act creating the Aqueduct Commission and the act creating the Board of Water Supply.

The practice which obtains in the appointment of commissioners in such proceedings merits criticism; courts do not always sufficiently regard the public interest in the allowance of counsel and commissioners' fees; and the commissioners frequently deem their appointment not so much a public trust as an opportunity for exorbitant private profit at the city's expense. The evils are glaring and of long continuance. The vital question is the remedy. Upon this subject diverse views are entertained by the Commission as well as in the community. Some members of the Commission, as a means of temporary relief, favor the appointment by the Appellate Division of a permanent board of condemnation commissioners of twenty-one persons residents of the several counties included within the city, these commissioners to be salaried and to have jurisdiction over

practically all condemnation proceedings where property to be acquired is within the city limits; the Appellate Division to make appointments from the list of permanent commissioners, unless objection be made by a property owner, in which case it may appoint at its discretion outside of the list. All commissioners who are not to receive salaries shall serve at the rate of ten dollars for a day of five hours, no allowance to be made for adjournments or for shorter sessions.

Other members of the Commission question the constitutionality of this plan and believe the only remedy to be a constitutional amendment. All concur in recommending the amendment of the Constitution so as to provide for a court of condemnation.

By an act of the legislature passed after the ratification of the Constitution of 1894, the Appellate Divisions were empowered to establish rules of practice binding upon all the courts in this state and all the judges and justices thereof, except the Court for the Trial of Impeachments, and the Court of Appeals. Under their rules they assign the trial and special term justices to the different parts during each calendar year. Applications for the appointment of commissioners in condemnation proceedings must, in the first department, be made at part three, special term. Inspection of the list of justices designated to sit in this important part since January 1, 1895, discloses the remarkable fact that few justices have ever been privileged to occupy this post and to dispense the patronage attached to it. In cases where owing to the absence of the designated justice some other justice sits, it is the almost invariable practice for the corporation counsel to adjourn applications for the appointment of commissioners until a term at which the regularly assigned justice presides. Thus, through its control over the rules of the court and over the assignment of justices, the Appellate Division in this department is in a position to remedy some of the graver evils of the system.

According to a statement submitted to this Commission by the Board of Water Supply as of August 31, 1908, its expenditures to that date in the acquisition of real estate, either by private contract or under the law of eminent domain, were as follows:

Advertising .....	\$187,158.10
Stenographers and other clerks to Commissioners of Appraisal .....	27,932.67
Special counsel fees and expenses .....	268,775.60
Commissioners of Appraisal, fees .....	104,515.48
Commissioners of Appraisal, expenses .....	30,618.74
Awards in condemnation proceedings .....	277,007.50
Interests on awards .....	15,781.93
Counsel fees of Parcel Owners .....	18,862.70
Agreements, offices and buildings .....	28,287.00
Advertising proposals .....	9,268.11
Contracts .....	507,263.67

Of this enormous outlay, a sum aggregating \$691,200.33, appears to have been incurred in the condemnation of land appraised at \$277,007.50, and in purchases by contract amounting to \$507,263.67. This vastly disproportionate expenditure is due to provisions of the statute creating the board, and revised legislation would fail of complete success if it did not prevent such excessive cost in the future.

#### LOCAL BOARDS.

We recommend that there be but one local board for each borough, to consist of the members of the council elected from it. This determination has been reached after thorough investigation and

prolonged consideration, and we believe that the best interests of the localities will be subserved by the adoption of this course, and the discontinuance of the large number of local boards now in existence.

We also recommend that the borough boards shall have power upon their own initiative, without approval of the board of estimate and apportionment, to undertake local improvements not inconsistent with the general plan of city improvement, in all cases in which the cost of an improvement shall not exceed five thousand dollars—the cost to be assessed upon the area of benefit.

#### INFERIOR LOCAL COURTS.

No change is recommended in respect of inferior local courts, except that provision be made for the appointment of two additional justices of special sessions, seriously needed at the present time.

A number of sections of the present charter devoted to the inferior civil and criminal courts will be carried into the administrative code, until the passage of a law respecting courts of inferior local criminal jurisdiction throughout the state, and a new municipal courts act are enacted.

The only fundamental change we suggest is the imposition upon police magistrates of the duty (now performed by coroners) of authorizing autopsies, and of conducting inquests.

#### PENSION FUNDS.

The proposed charter deals in the first instance in a single section with all pension funds, continuing and preserving them intact. Different pension and retirement fund sections of the present charter are largely repetitious. We have believed it better, after a general provision for the continuance of these funds, to put all sections relating to their administration, into the administrative code.

#### BOARD OF ASSESSMENT AND AWARD

Great care has been given to the clarification of sections of the charter regarding the constitution and functions of the board of assessors. Inasmuch as we propose an enlargement of the powers of the former board so as to permit it to make awards for damages for changes of grade (functions which it now performs under numerous special statutes), we have changed the title of the board.

Such sections of the existing charter in respect to the board of assessors, not in the new charter, as we propose to retain, are incorporated in the administrative code, which provides also machinery for the collection of assessments. In this connection we may add that the administrative code makes adequate provision for the collection of arrears of taxes and of water rents.

#### The MUNICIPAL CIVIL SERVICE.

Sections of general application have been placed in Title 1 of the administrative departments. The tenure of employees has been safeguarded by a requirement that in the removal of any employee holding a position in the classified municipal service subject to competitive examination, there shall, together with a copy of the charges forming the basis of his dismissal and the explanation of his removal, be filed a copy of his defense with the municipal civil service commission. This may have a tendency to check a practice which tends to reduce the civil service tenure to a farce—where a department head makes a charge against an employee which is abundantly met by his answer, but is

treated as insufficient. We recommend a particular chapter on the municipal civil service in which are set forth the fundamental principles of the Civil Service Law as applicable to the city, but without repetition of general provisions of the State Civil Service Law. This brief chapter shows the precise place and function of the municipal civil service commission in the political organization of the city.

## CONGESTION AND CITY PLAN.

By taking the control of the city map out of the hands of the Borough Presidents, and by vesting the Board of Estimate and Apportionment with the power to perfect it not only, but by imposing upon that Board the duty of perfecting the map and conducting all future improvements consistently with a comprehensive scheme for the physical development of the city, intelligently and harmoniously, it will be possible for the first time to provide the administrative means whereby the cure for the existing congestion of population may be accomplished. It is impossible, consistently, with the welfare of the city, that present conditions should continue, or that the city should longer be menaced with an intensification of the evil. The first remedial step is to impose upon some competent body the duty to study and investigate and the power to prepare such a stable and comprehensive plan as present and future necessities may dictate, and this we believe we have done in the grant of powers to the Board of Estimate and Apportionment. This should also be of the greatest value to the Public Service Commission in connection with its work of devising a comprehensive plan for the development of the transportation facilities of the city.

## CONCLUSION.

The diversity and importance of the subjects treated in this report and codified in the proposed charter will enable the legislature to assess the magnitude of the labor of this Commission. It has attempted to formulate a comparatively brief charter out of a body of law reaching back to colonial days, and, since 1830, covering a number of municipal charters and numerous statutes. The charter of Greater New York, as its creators admitted was not "a charter in general terms with concise sections comprehensive in character," but was an aggregation, more or less symmetrically arranged, of all provisions of law relative to the newly constituted municipality. The Charter Revision Commission of 1900 at the outset of its report declared that it had debated whether it would undertake the preparation of a charter "different in form from the existing charter, or whether it would embody its recommendations in the form of amendments to that charter." It decided that "the limited amount of time at the command of the Commission" rendered it impossible for it to enter upon an enterprise so vast. This work has devolved by law upon the present Commission. It has endeavored to obey the legislative mandate making it obligatory to present its report before the close of the existing session. This mandate has recently been emphasized by request from the Cities Committees of the Senate and of the Assembly that a report be presented by the Commission not later than March. Obedient thereto, the Commission submits its results.

Mr. Madison in the summer of 1823 wrote in reference to the work of the great federal convention of 1787 that in

the latter stages of its session "it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies." The Commission has no sense of impatience beyond the realization that a truly fit charter and administrative code would be the product of work upon which no time limit is set.

The Commission has been sustained in its labors by the conviction that they cannot prove futile, but must contribute to the foundation upon which a satisfactory organic law and administrative code for the city may be established.

With the administrative code will be submitted special bills in reference to the various sections of the present charter and of other statutes either repealed, modified or left in full force.

We cannot too highly testify our appreciation of the valuable assistance which various heads of departments and bureaus have cheerfully and courteously rendered. Respectfully submitted,

WM. M. IVINS,  
Chairman.  
E. R. L. GOULD,  
Vice Chairman.  
JAMES COWDEN MEYERS,  
Secretary.  
ALFRED J. BOULTON.  
GEORGE CROMWELL,  
J. HAMPDEN DOUGHERTY.  
GEORGE L. DUVAL,  
GEORGE McANENY.  
P. F. MCGOWAN.  
HERMAN A. METZ.  
HARRISON S. MOORE.  
W. W. NILES.  
CHARLES H. STRONG.  
ALMET REED LATSON.

While we have signed the foregoing as the report of the Commission, we have done so with the express reservation that we favor the election of a borough executive in each borough who shall be charged with local administrative functions similar to those now vested in the borough presidents in each borough, and a separate member of the board of estimate and apportionment, and we dissent from the conclusion of the majority in that regard.

HARRISON S. MOORE.  
ALFRED J. BOULTON.

To indicate our concurrence in the main with the views of our associates, we have signed the foregoing report but desire to note our dissent from the conclusions of the majority of the Commission in the matter of the administration of borough affairs, for the reason that we do not believe that the charter as proposed recognizes the principle of substantial home rule in local affairs.

GEORGE CROMWELL.  
W. W. NILES.

The recommendations of the Commission as a whole, acting through its majority, are contained in the foregoing report, which I have signed, yet I am constrained to dissent from its conclusions in certain particulars.

## BOROUGH GOVERNMENT.

1. The wisdom of divorcing the legislative functions of the borough president from the administrative duties now exercised by that officer is conceded. It is equally apparent that there should be vested in the mayor that degree of centralization which would enable him to exact the proper administration of government in each borough. On the other hand, an appropriate measure of borough autonomy should be preserved and the danger of complete domination or perma-

nent intrenchment by any one political party should be averted. Under the proposed plan the borough president is retained, his functions limited to a seat in the Board of Estimate and Apportionment, while the administrative or executive functions now exercised by the five borough presidents are transferred to a single commissioner appointed by the mayor. As a substitute for this plan, I recommend:

a. That the elective office of borough president be retained, the incumbent to be vested with the present administrative functions of that officer only.

b. That there be elected in each borough a representative to be known as "Member of the Board of Estimate and Apportionment," and that the present system of plural voting be preserved.

c. That the mayor be vested with power of removal over the borough president, for cause, with power of appointment to fill the vacancy created, the person chosen to be a member of the same political party as the last incumbent of the office.

## POLICE.

2. So far as practicable the various departments should be administered in the borough of Brooklyn by officials of the same grade as those who administer the departments in the borough of Manhattan. This is particularly true of the Police Department. Under the recommendations of this report, while provision is made for the maintenance of a branch office in the borough of Brooklyn, the police commissioner is vested with discretion in the determination of the extent to which the police force assigned to that borough shall be commanded by a resident official. A mandatory provision should be substituted. The creation of a superintendent of police selected from the uniformed force meets with my hearty approval, but if provision were made that he in turn should appoint from the uniformed force a chief having control throughout the boroughs of Manhattan, Bronx and Richmond, and another having control throughout the boroughs of Brooklyn and Queens, the efficiency of the entire force would be greatly increased, the existing discontent in the boroughs would be largely eliminated, and probably the commissioner would need but a single deputy in addition to the trial deputy.

## INFERIOR LOCAL COURTS.

3. The appointment of city magistrates and justices of the Court of Special Sessions constitutes a notable exception to the principle of an elective judiciary which runs through the entire system of government in the state of New York. Experience seems not to have justified the retention of this exception. Any tendency to give to that important bench a political complexion would be greatly modified by adhering to the elective system.

ALMET REED LATSON.

New York, N. Y., December 12, 1908.  
To the Governor,  
Sir:

In compliance with your request, we now have the honor to make the following report with regard to the constitutional borrowing capacity of The City of New York as of the 1st of November, 1908.

At the request of the special committee of the Senate and Assembly now investigating the financial affairs of The City of New York, and also at the request of the Charter Commission, the Comptroller has prepared a statement upon the basis of calculation adopted for the Finance Department of the City, showing the margin of borrowing capacity, within the constitutional limitation, as of November 1st, to be \$37,931,640.

Ten per cent. assessed valuation of taxable real estate, 1908.....		\$672,241,578.90
Net funded debt (chargeable against constitutional limitation) .....	\$546,354,179.09	
Net contract liability (chargeable against constitutional limitation) .....	45,416,523.30	
For land acquired (estimated) .....	18,935,961.76	
Revenue bonds of 1902, outstanding November 1, 1908 .....	100,000.00	
Revenue bonds of 1903, outstanding November 1, 1908 .....	5,000,000.00	
Revenue bonds of 1904, outstanding November 1, 1908 .....	4,476,000.00	
Revenue bonds of 1905, outstanding November 1, 1908 .....	7,000,000.00	
Revenue bonds of 1906, outstanding November 1, 1908 .....	9,376,210.00	
Total .....	\$25,952,210.00	
Grand total .....		636,658,874.15
Balance .....		\$35,582,704.75
Remaining out November 1, 1908, of the proceeds of sale of bonds, the following amount which has not been apportioned and transferred to the credit of the various accounts on account of which said bonds were authorized to be sold.....		\$2,348,935.88
Estimated margin out November 1, 1908.....		\$37,931,640.58

Before discussing this statement in detail it is proper to say that early in May of the present year a special committee of the Charter Commission undertook an investigation of the City's borrowing capacity, which will be spoken of generally hereafter as the Debt Limit. For the purpose of ascertaining the City's contract indebtedness, certified as well as uncertified, on the books of the Comptroller, specific questions were addressed to each of the City departments, accompanied by uniform blank schedules. In reply to the Committee's communications it received from each of the City departments satisfactory replies, returning the schedules showing in detail as of the 1st of July the precise contract debt of the

City payable out of the proceeds of corporate stock; that is to say, all contract indebtedness except that payable from appropriations for departmental purposes. The Committee then undertook an examination of all questions of law involved in the method of calculating the City's indebtedness for the purpose of determining whether the same was within the constitutional limitation, examining all of the opinions of the several Counsel to the Corporation in respect to these matters and thoroughly investigating the practices of the Finance Department in the inclusion or exclusion of one or another item in or from its calculations.

Having said this much by way of foreword, permit us now to recast the Com-

troller's statement of November 1st, so as to show the elements of his calculation, which it will be noted at the outset does not even contain a statement of the gross bonded debt of the City, and which as prepared does not admit of any check or counter-calculation, except as the result of expert knowledge or access to the City's books, and therefore, although arriving at a result which may or may not be correct, is nevertheless quite blind to interested taxpayers or the holders of the City's securities. We prefer, therefore, to recast the form of statement summarily, for the time being adhering to the Comptroller's basis of calculation. The result is as follows, the figures differing from the Comptroller's only because of our failure to include the cents!

Gross bonded indebtedness, November 1, 1908 .....		\$932,121,157
Less revenue bonds .....		139,578,100
Gross funded debt .....		\$793,543,057
Contract liability, other than on appropriation account .....	\$45,416,523	
Liability for land acquired, as estimated by the Comptroller.....	18,935,961	
Revenue bonds issued against uncollected taxes for years prior to 1907.....	25,952,210	
		\$90,304,694
		\$883,847,751
<b>DEDUCTIONS.</b>		
Bonds held by the sinking fund, and which are redeemable from those funds, except under Bank for Savings vs. Grace.....	\$190,649,564	
County bonds, exempt under the Constitution .....	21,708,278	
Water bonds for debt incurred since January 1, 1904, exempt under the Constitution .....	34,831,034	
Proceeds of bonds in the City Treasury, deducted by the Comptroller.....	2,348,935	
		249,537,812
Ten per cent. of assessed valuation of taxable real estate, 1908.....		\$634,309,939
Margin of borrowing capacity of the City upon the basis of the above calculation.....		672,241,578
		\$37,931,639

We may now consider the propriety and adequacy of the method of calculation.

1. It will be observed in the first instance that the Comptroller estimates land liabilities at \$18,935,961. Our investigation has disclosed the fact that this estimate of liability covers only that land where title has actually passed to the City, and that so far as practicable the estimate is made upon the following basis:

a. Awards actually made, but not yet paid.

b. Estimated awards about to be made, where the basis of the award has been determined by the commissioners.

c. Where no basis of award has yet been arrived at, upon the value of the property as assessed for purposes of taxation.

d. That nothing is included in the estimate for interest and for costs of acquisition, meaning thereby commissioners' fees, disbursements and legal costs.

2. The most careful examination leads us to the belief that in respect of the lands already acquired by the City, this estimate is inadequate. As will be observed, it is determined more or less arbitrarily by the Comptroller, can be increased or decreased at his pleasure, is certainly inadequate so far as concerns so much of the estimate as is based upon values as assessed for purposes of taxation, and is wholly erroneous to the extent

to which it fails to include interest and the costs of acquisition. It is our belief that this estimate should be increased by not less than 50 per cent.; that is to say, that there should be added thereto as a minimum, \$9,500,000.

2a. A very grave question is raised as to whether the City should not also, as a matter of business conservatism and in due respect for the spirit of the Constitution, estimate and deduct its contingent liability for real estate in course of condemnation, where the City has not yet actually acquired title. This is a question of law, however, which can only be determined by the courts or by an act of the Legislature. Until so determined, and notwithstanding the contention that the City has the right to discontinue, which we have maturely considered, it is our belief that the Constitution should have the benefit of the doubt. Our inquiries indicate that the lands in course of condemnation where title has not yet passed to the City are at least 33-1-3 per cent. of all real estate now being condemned. If the ultimate cost of such land be calculated upon the same basis as that suggested by us for the determination of the ultimate cost to the City of lands to which title has passed, it would be necessary to add a further \$14,000,000 to the item of land liability, thus making a total increase in the item of land liability of \$23,500,000.

2b. The city is under certain obligations to pay for real estate privately purchased, and this item is completely

neglected by the Department in its calculations.

3. The Comptroller has not added to the City's liability contracts payable out of the proceeds of bonds when contracts have been actually let and entered into between the departments and contractors, but which he has not yet certified to and carried into the City's general books. It is possible for the Comptroller from time to time, by failure to certify such contracts, to contract or expand the borrowing capacity of the City, a practice which we do not believe was contemplated by the Constitution, notwithstanding the fact that no contract can be sued on until so certified. Such contracts have been authorized by the Board of Estimate and Apportionment, have been duly entered into, and in our opinion should, for the purpose of calculating the debt limit, be treated precisely in the same manner as contracts which have received the Comptroller's certificate. If we are right in this belief, there should be added, in round figures, as of November 1, 1908, for such contracts, \$3,500,000. To this should be added all contracts awarded, but which have not yet been forwarded to the Comptroller's office, and which may aggregate a large sum. We determined precisely what this was as of July 1st last, and to do so required an investigation which continued for six weeks. It would now require not less than a month to make the exact corresponding figures as of November 1st.

4. The Comptroller has, in his calcula-

tion, made a deduction of \$2,348,935 for proceeds of bonds remaining in the City Treasury, "which have not been apportioned, and transferred to the credit of the various accounts on account of which said bonds were authorized to be sold," but are mingled with the common fund. This is deducted by the Department on the theory that the amount is applicable to the payment of land liabilities, or to payment on account of contracts already included in the debt. Until the cash is so used, however, it is merely an asset of the City, like any other asset, and the ruling of the courts does not seem to authorize any deductions for assets of any kind, and particularly where the fund in question is not separated from other moneys in the Treasury, but is used for the payment of the City's current bills.

5. It should be observed, in passing, that no estimate is made of the contingent liability of the City in some 25,000 actions now pending against it. Judgments entered in these actions, as a rule, are ultimately paid out of appropriation account, but that seems to be no reason why some proper estimate should not be made for so much of such judgments as cannot be paid out of appropriation accounts.

6. At this point attention should also be called to the fact that by Chapter 208 of the Laws of 1906, the Board of Estimate and Apportionment was required, on or before the first day of October, 1906, to "authorize corporate stock of The City of New York to be issued to an amount equal to so much of the deficiency on the 1st day of January, 1905, in the product of taxes theretofore levied and deemed by the Board to be uncollectable, as shall not be provided for in prior tax levies or by the issue of corporate stock of The City of New York," which act was to take effect immediately. The Board of Estimate and Apportionment determined such amount to be \$36,000,000, and authorized the issue of \$36,000,000 of corporate stock. Under such authorization, however, it has up to this time actually issued but \$3,000,000. The question is at once raised as to whether it was the intent of the Legislature that this \$36,000,000 of uncollectable taxes should be funded, and if so, whether the Board of Estimate and Apportionment has any discretion in the premises. We understand the law to be mandatory, and not to be limited to the authorization of the issue, but to the exercise of the authority.

In view of the foregoing, we now call attention to what we believe to be the necessary readjustment of the estimated margin of borrowing capacity as shown by the statement of the Finance Department, namely.....\$37,931,640 00

Additional estimated land liability .....	\$23,500,000 00
Cash improperly deducted...	2,348,935 00
Contracts let but not certified .....	3,500,000 00
	\$29,348,935.00

Readjusting the Comptroller's figures by the deduction of this amount we have a remainder of but.. \$8,582,705 00 exclusive of contracts awarded but not yet in the Comptroller's hands, and contracts for purchase of real estate, still unconsidered.

In addition to the questions involved in the foregoing considerations, our attention has been called to another matter of much gravity, namely, the question as to whether the assessed value of special franchises for purposes of taxation should be included\* in the assessed real estate, for the purpose of determining the borrowing capacity of the City within the constitutional limitation.

Article VII, Section 10 of the Constitution contains the following provision as the same was adopted in 1884 and subsequently in 1894:

"No city or county shall be allowed

to become indebted for any purpose or in any manner, to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city, subject to taxation as it appeared by the assessment rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted for any further amount until such indebtedness shall be reduced within such limit."

At the time of the original adoption of this provision in 1884, as well as at the time of its re-adoption in 1894, and subsequently and until after the passage of the special franchise tax law of 1899, no special franchises were assessed for purposes of taxation in any city of this State. They first appear on the City's assessment rolls in 1901. At the time of the passage of the special franchise tax law "real estate" had a definite, fixed, technical meaning. It was defined by the Revised Statutes as "lands, tenements and hereditaments," and is still so defined by the Revised Statutes. When the Constitution was passed, personal property, although tangible, was excluded from the basis for the calculation of the debt limit, and special franchises as taxed and as defined by the law of 1899 is a new species of intangible property. Subdivision 3 of Section 2 of the Law of 1899 provides:

"The terms 'land estate,' and 'real property' as used in this chapter, include the land itself above and under water, all buildings and other articles and structures, sub-structures and superstructures erected upon, under or above the same, or affixed to the same, etc., etc., all surface, underground or elevated railroads, including the value of all franchises, right or permission to construct, maintain or operate the same in, under, above or through streets, highways, etc., etc., and all mains, pipes and tanks laid or placed in, upon, above or under any public or private street or place for conducting steam, heat, water, oil, electricity or any property, substance or product capable of transportation, etc., etc., including the value of all franchises, rights, authority or permission to construct, maintain, operate, etc., etc., any mains, pipes, tanks, conduits, or wires, etc., etc., for conducting water, steam, heat, light, power, etc."

The Court of Appeals held that this law created

"a new system of taxation, brought within its range a new character of property, and assigned the duty of making the valuation to the state board of tax commissioners \* \* \* throughout the entire state. \* \* \* The system thus created had never been known before, and as its main subject the act dealt with special franchises, which had never been taxed before. Property unknown as the subject of taxation to the framers of any of our constitutions was brought into the system, which required new methods of valuation and the exercise of functions which had never belonged to local assessors. The property was sui generis, and from its nature could not be valued by local assessors. \* \* \* The valuation of special franchises had never been attempted before, but presented a new field of action and called for the exercise of new and different functions. They could not be seen, handled, measured, weighed or counted. They were specialties, and had no market value. There were no sales to

guide, and no experience from ownership, rental or use to rely upon. The new property is real estate in name but not in reality, for it is a mere privilege to do something in public streets and places not permitted to citizens generally."

It will be noted that the definition which includes special franchises in "lands," "real estate" and "real property" is given "as used in this chapter." The point is now raised that the term "real estate" as used in the special franchise law is not the term "real estate" as used in the Constitution; that the Legislature cannot enlarge the meaning of the Constitution directly by the attribution of new meanings to terms used in the Constitution, nor indirectly by the attribution to the Constitution of new meanings adopted by the Legislature for purposes within its power but not referred to in the act or foreseen by the Constitution. If this contention be correct, then the assessed value of real estate as of July 6, 1908, will have to be reduced by the amount of \$492,490,470, thus reducing the basis of the calculation for the determination of the City's borrowing capacity by 10 per cent. of such sum, or \$49,249,047. This is a matter of vital importance, and as it is answered in one way or the other, must determine the immediate future course of the municipal authorities in respect of the further issue of corporate stock.

The questions here raised are:

- 1st. Did the Legislature intend to enlarge the City's borrowing capacity?
- 2nd. If such was its intention, had it the power to carry such intention into effect?

The questions involved have been passed upon but once, and by Appellate Division—Kronsbein vs. Rochester, 76 App. Div. 494—which does not seem to have been considered with a view to the full consequences of the decision in their relation to the fundamental purpose of the Constitution.

There can be no question about the power of the Legislature to prescribe the method for determining the borrowing capacity of the city, provided such prescription is not obnoxious to the Constitution in that it would permit an extension of the municipal borrowing capacity beyond the 10 per cent. limit. That the Legislature has power to settle all of these questions, and to make it impossible in the future that there should be any doubt as to how the City's borrowing capacity shall be calculated, and incidentally thereto as to whether any issue of bonds is or is not invalid, is beyond doubt. Such being the case, we are of the opinion that the Legislature should be asked to pass a law applicable alike to all cities of the State, but in any event applicable to The City of New York, which should require the statement to be made as follows:

1. To include all assessment bonds due and outstanding, without deduction therefrom of amounts due the City on account of property benefited.
2. To include all outstanding revenue bonds issued for account of all taxes which shall have remained unpaid for more than two years.
3. To include an adequate estimate for all claims against the City in course of settlement, or which may be reduced to judgment in pending suits to which the City is defendant, and which claims or judgments are not payable out of the proceeds of revenue bonds.
4. To include the maximum estimated cost to the City, including interest and all legal costs, fees, disbursements and expenses of the acquisition by the City of all real estate at the date of such statement, in actual course of condemnation; all awards made in condemnation proceedings and payable by the City, where such awards remain unpaid; and all sums to be paid under contracts for purchase without condemnation.
5. To include the aggregate of all

contracts which have been duly awarded and signed by the head of any department, whether the same shall or shall not have been certified by the Comptroller.

6. To make no deduction from the City's indebtedness on account of cash in the City Treasury, proceeds of the sale of corporate stock or bonds, other than revenue bonds and special revenue bonds, where such cash is mingled with other cash in the treasury and has not been specifically appropriated and set aside for the purposes of the account for which the stock or bonds of which such cash is the proceeds were issued.

7. To make no deduction on account of any uninvested cash in any of the sinking funds.

8. To make no deduction of the amount of any bonds of the city held by any of the sinking funds, which bonds are by constitutional provision exempted from the calculation of the city's borrowing capacity.

If the Constitution did not mean that special franchises should be used as a basis for calculating the city's borrowing capacity, then the Legislature will have no power to permit the continuance of the present practice; but on the other hand, the Legislature would have the power, as we are advised, if it saw fit, itself to solve the question by providing that in estimating the borrowing capacity of the city such special franchise assessments should not be used as a basis of calculation.

We are of the opinion that when the borrowing capacity of the city has been so nearly exhausted as it appears at the present time to be, whatever borrowing capacity remains should be treated purely as a factor of safety. That the City is in its present condition, and that the borrowing capacity is at the moment so limited, is manifestly due, among other things, to the fact of the City's failure to collect its taxes and assessments. There was due the City as of November 1st, for unpaid taxes and assessments for the year 1906 and prior years, the following:

Real estate taxes.....	\$9,418,708
Special franchise taxes.....	17,964,830
Personal property taxes.....	32,346,528
Assessments (to date) about....	26,000,000
	<u>\$85,730,066</u>

There should be no doubt about the collection of the arrears of real estate taxes.

There should be no doubt about the collection of part of the special franchise taxes, but how much is entirely problematical.

It is impossible to say how much of the personal property taxes can ever be collected. As a matter of fact, during the past year over \$9,000,000 of personal property taxes have been written off the books as uncollectable, which sum is not included in the foregoing figures.

If the collectable arrears of taxes and assessments were actually in the City Treasury at the present moment, the City's financial necessities would be relieved to that extent.

All of which is respectfully submitted.

WILLIAM M. IVINS,  
Chairman, N. Y. Charter Commission.  
E. R. L. GOULD,  
Chairman, Committee on the Debt Limit.  
GEORGE L. DUVAL,  
GEORGE McANENY,  
HERMAN A. METZ,  
Comptroller.

New York, January 22, 1909.

To the Governor:

Sir:

Since the communication to you of the New York Charter Commission's Committee on Debt Limit, dated December 12, 1908, we have made a further investigation of certain items of the City's accounts, and the result bears so directly upon the matter of the City's borrowing

capacity under the present constitutional limitation that we regard it our duty to lay the facts before you now, while constitutional amendment and the method of calculating the City's indebtedness are under consideration.

In the financial statement furnished to the Charter Commission by the Comptroller in June last, the sum of \$51,000,000 appeared as uncollected taxes of the year 1904 and years prior thereto, against which only \$9,000,000 of revenue bonds were outstanding, and all of the City's obligations for appropriation purposes had apparently been discharged except as to some \$5,000,000 of claims then pending and in process of adjudication. Thus, the City had used \$37,000,000 for appropriation purposes which was derived from some undisclosed source.

It was attributed by the Comptroller's office to "trust funds, etc.," meaning thereby "special and trust funds," a term employed in the Department to describe the unexpended credit balances of various accounts, but no more specific explanation could be given without an exhaustive examination of the accounting, extending back over many years.

For obvious reasons it would entail much additional labor and expense to take as a basis for the inquiry an intermediary statement of the Comptroller, such as that of May 31, 1908, and as the same purpose will be served by taking an annual statement as the basis, we have taken that of December 31, 1907 (say January 1, 1908). We treat of round amounts only, as that will suffice to illustrate the facts and principles to which your attention is respectfully directed:

Uncollected taxes, December 31, 1907 .....	\$102,800,000
This amount included an estimate of taxes probably uncollectable, which amount was carried to the credit of a provisional account .....	3,500,000
Leaving available for appropriation purposes .....	\$99,300,000
which with cash in the Treasury at that time .....	7,500,000
formed a total of.....	<u>\$106,800,000</u>
subject to deduction for warrants outstanding against the City treasury .....	\$10,000,000
for claims unsettled partly in process of adjudication....	\$18,000,000
	<u>\$28,000,000</u>

So that the City had used for appropriation purposes which should have been derived from the uncollected taxes .....

Against this, revenue bonds were outstanding to the extent of .....

The City has thus spent in round figures .....

more than it had apparently received, and it now appears that this deficiency was made good by the use of Special and Trust Funds as follows:

1. Assessment Accounts—comprising funds acquired by the City through the sale of bonds for street and park openings, as well as collections made on this behalf from interests benefited.....	\$1,900,000
2. Trust Funds proper, including a bequest to the City for construction of a fountain, various intestate estates and unclaimed warrants and salaries .....	680,000
3. Special Account, including deposits made with the City against its liability for restoring and repaving streets, and the unliquidated balance of the Brooklyn water fund .....	3,800,000

4. Boroughs.—The balance at the credit of this account arises from the assets received from the several Boroughs at the time of the consolidation, as far as realized, in excess of the payments made on account of the liabilities of the various Boroughs assumed by the City. This account is chargeable with the interest upon the bonded debt of the different Boroughs, and to some extent has been charged with the payment of the maturing bonds. This practice, however, has been variable, and both the principal and interest of the Borough bonds are frequently provided for by taxation .....

Excise Funds.—These funds, recovered in 1907, after the payment of several of the pension appropriations chargeable against them were carried forward into the following year, when after further deductions for the teachers' retirement fund, etc., they were carried into the general fund for the reduction of taxation, but in the meantime, being merged in the common fund in the City Treasury, were used by the City for its general purposes .....	\$1,500,000
	5,100,000
	<u>\$12,980,000</u>

6. General Fund balance.—Excess of collection over the estimated revenues which were deducted from the budget of 1907, which until deducted from the budget of the following year was available for general purposes...

7. Bond Accounts—Balance unexpended to the credit of the various accounts to which have been allotted the proceeds of the sale of bonds for specific purposes, and not for the general purposes of the Treasury .....

8. Bond Accounts unallotted.—Being balances to the credit of various provisional accounts, the proceeds of sales of bonds not yet allotted to the specific account to which they belong .....

Total .....	<u>\$25,630,000</u>
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(Note: The difference between this total and that of \$25,800,000 given above is accounted for by the fact that only round amounts are dealt with.)

Some part of the \$25,630,000, is undoubtedly a surplus, i. e., a provision has been made for the use of many of the several accounts referred to in excess of their requirements. To the extent of such surplus the use of those funds will not practically affect the statement of the City's debt, but it is impossible to determine to just what extent such a surplus will be shown.

It would seem that items 1, 2, 3, 4 and 7 are such as not only to fall within the spirit, but within the letter, of the Constitution, and should be treated as indebtedness for the purposes of the constitutional requirement. They aggregate in round figures \$13,580,000, and would extinguish the margin of borrowing capacity as shown in our report to you of December 12, 1908, as of the condition of the City's indebtedness on November 1, 1908.

As to the other items, there may be some doubt as to their proper treatment, but they would appear to be properly attributable to the surplus above referred to.

This practice of keeping in a common fund all of the City's moneys, from whatever source derived, and making all disbursements from that fund, is responsible for the conditions above set forth. The practice dating back, however, for many years, has become traditional, but on November 12, 1904, a change was made in the method of bookkeeping which tends to further confusion, and has resulted in the deduction since that time from the statement of the City's indebtedness of the balance of unallotted proceeds from the sale of bonds. Prior to November 12, 1904, the practice was to credit directly to the account for the benefit of which the bonds were issued the proceeds of their sale. This implied either a separate sale of a part or the whole of any one issue authorized, or the immediate allocation of the proceeds of a general sale of bonds. The credit balances formerly appearing in the specific accounts to which the proceeds of the bonds were

credited were not deducted from the City debt, but on the other hand the contract and land liability affecting those balances was not included in the City debt. The present practice, dating from 1904, is to credit the proceeds of bond sales to either of the following provisional accounts:

Proceeds of the sale of bonds for various municipal purposes;

Proceeds of the sale of bonds for water purposes;

Proceeds of the sale of bonds for rapid transit purposes;

Proceeds of the sale of bonds for New York Public Library.

The three accounts first named each cover several subdivisions, and as the funds are required by either subdivisions an allotment is made. The balances unallotted, whether or not the entire contract and land liability outstanding against them be included as a part of the debt, are deducted from the City's debt in the

method of computation at present prevailing, except the balances at the credit of "water purposes," because the bonds for those purposes are exempt by law from the debt limit. It is apparent that such deduction from the City debt may at any time be excessive, assuming that it be authorized at all. As a matter of fact, the deduction from the debt on December 31, 1907, seems to have been entirely unwarranted, as it was not represented by cash in the treasury. At that time, the warrants outstanding against the treasury amount to some \$10,000,000 as against the cash balance of \$7,500,000, or an overdraft of nearly \$2,500,000.

All of which is respectfully submitted,  
WILLIAM M. IVINS,  
Chairman, New York Charter Commission.

E. R. L. GOULD,  
Chairman, Committee on the Debt Limit.  
G. L. DUVAL,  
GEORGE McANENY.

## APPENDIX I.

# Synopsis of Charter

### CHAPTER I.

#### CONSTITUTION, BOUNDARIES, BOROUGHS, RIGHTS, POWERS, OBLIGATIONS AND ACTIONS.

- Sec. 1. The city continued as a municipal corporation.
2. The corporate name and corporate powers of the city.
1. To take, purchase and lease real and personal property.
  2. To take real and personal property by gift or bequest, and to agree on the terms and conditions with the grantor or donor.
  3. The common seal.
  4. To contract, sue and be sued.
  5. To have all powers necessarily implied which are essential to the exercise of its corporate functions.
  6. To be no abridgment of the rights, powers or privileges of the city.
3. Powers of local administration and government vested in the city.
4. The legal obligations of the city confirmed.
5. Definitions: "city," "person," "officer," "employee," "councilman," "franchise," "street," "Port of New York," "administrative code," "water front property."
6. City's rights and title in water front, parks and streets to be inalienable.
7. Franchises; how granted.
8. Consents and agreements to the exercise of franchises to be made by the Board of Estimate and Apportionment.
9. Confirmation of grants of land under water.
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17. Penalty for violation of trust.
18. Officers or employees not to be interested in contracts, and not to be stockholders in corporations having contracts with the city.
19. No expenses to be incurred until the appropriations have been made.
20. Expenditures to be regulated so as not to exceed the amount appropriated.
21. 1. No officer or employee to hold any other public office or emolument.  
2. Or to be trustee in bankruptcy, receiver, referee or commissioner in condemnation proceedings.  
3. If nominated for elective office to resign from the city's service.  
4. Not to contribute to political funds or be members of organizations created for the purpose of effecting legislation in their own behalf.  
5. Not to be officers of political committees or delegates to conventions.
22. Office to become vacant when incumbent removes from the city or from the borough for which he was appointed.
23. Mayor, president of council, comptroller and borough presidents to be removable by the Governor.
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31. Council districts: 14 in Manhattan, 11 in Brooklyn, 6 in The Bronx, 5 in Queens and 3 in Richmond; apportionment.
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53. Borough presidents; how elected; how removed; vacancies, how filled; salaries.
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55. Borough presidents to devote their exclusive attention to the duties of the board of estimate.
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**APPENDIX II.****An Act to Provide a Charter for the City of New York****CHAPTER I.****Constitution, Boundaries, Boroughs, Rights, Powers, Obligations and Actions.**

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The City of New York as constituted immediately prior to the time this act takes effect is continued as a municipal corporation with its then existing territory and boundaries. This act may be cited by the short title "The New York City Charter."

Sec. 2. The corporate name of the city shall continue to be "The City of New York," and under that name the citizens of the state of New York from time to time inhabitants of the territory comprised within the boundaries of the city shall continue to be a body politic and corporate and a municipal corporation in perpetuity, in law and in fact, with power of perpetual succession, subject to all existing legal obligations, without diminution or enlargement, and with all of the

rights, properties, interests, claims, demands, grants, powers, duties, privileges and jurisdictions now held by The City of New York. Subject to the provisions of this act, the city shall have power:

1. To take, purchase, hold, lease, sell and convey such real and personal property as the purposes of the corporation may require:

2. To take by gift, grant, bequest and devise; to hold real and personal property absolutely or in trust for any public use, including education; art, ornament, health, charity or amusement, parks, gardens, or the erection of statues, monuments, buildings or other structures upon such terms or conditions as may be prescribed by the grantor or donor and as may be accepted by the city; and to provide for the proper administration of such property;

3. To have, use and alter the common seal;

4. To contract and be contracted with, to sue and be sued, and to institute, prosecute, maintain and defend any action or proceeding;

5. To have and exercise all rights, privileges and jurisdiction essential to the proper exercise of its corporate functions, including all that may necessarily be in-

herent to, or implied from the powers specifically conferred upon the city;

6. To have and exercise all rights, privileges, functions and powers prescribed under existing or subsequent laws. Nothing herein contained shall be construed to limit or abridge any of the rights, powers or privileges possessed by the city at the time this act takes effect, all of which are hereby continued and confirmed.

Sec. 3. All powers of local administration and government within the territory comprised within the city shall be in and be exercised by The City of New York. Except as herein otherwise provided, the council as in this act constituted shall exercise all the powers vested in the corporation of The City of New York.

Sec. 4. All valid and lawful charges and liabilities now existing against the City of New York as constituted at the time this act takes effect shall be defrayed and answered unto by the city only to the extent to which The City of New York as constituted at the time this act takes effect would have been bound, if this act had not been passed.

1. All bonds, stocks, contracts and obligations of the municipal and public corporations and parts thereof united and consolidated by chapter three hundred

and seventy-eight of the laws of eighteen hundred and ninety-seven, and the acts amendatory thereof to form The City of New York, which in said acts were declared to be obligations of The City of New York and which, at the time this act takes effect, exist as legal obligations of said city, shall be deemed like obligations of the city as herein continued; and all such obligations as are authorized or required hereafter to be issued or entered into shall be issued or entered into by or in the name of the corporation of The City of New York.

2. All laws or parts of laws heretofore passed creating any debt or debts of the said municipal and public corporations and parts thereof, or providing for or relating to the payment of such debts, and every such law respecting the debts of The City of New York as constituted immediately prior to the time this act takes effect, shall remain in full force.

3. All pledges, taxes, assessments, sinking funds and other revenues and securities heretofore provided by law for the payment of any and all debts of the city, shall be enforced, maintained and carried out by the city in good faith. So far as taxation may be authorized to pay such debts or any of them, it shall extend equally throughout the city, except that all assessments for benefits heretofore laid, or provided to be laid, for the payment of any portion of such debts, shall be preserved and enforced.

Sec. 5. Unless otherwise expressly stated, whenever used in this act:

1. "City" means The City of New York as continued by this act;

2. "Person" includes a natural person, corporation, company, association, joint stock association, firm and copartnership;

3. "Officer" includes all persons elected to office by the qualified voters of the city or any division thereof; the heads of departments and their deputies; the members of the board of education and of all other boards and commissions appointed by the mayor; the commissioner of inquiry and his deputies; the several assistant corporation counsel; the superintendents of buildings; the superintendent of police; the members of the local school boards and of the administrative and supervising staffs of the board of education named in section one hundred and ninety hereof, other than the persons therein referred to as employees; the city clerk, the chief of the fire department, and their deputies; the chiefs of bureaus; the justices of the courts of special sessions and city magistrates. The board of estimate and apportionment may by resolution designate any other person an officer, and when so designated, such person shall be deemed an officer within the meaning of this section;

4. "Employee" includes every person other than an officer as hereinabove defined whose salary or compensation is paid out of the city treasury;

5. "Councilman" means a member of the council other than the president;

6. "Franchise" means any privilege, consent or agreement to use the streets, parks, waters, waterways, rivers, the water front, and land thereunder, or any public ground or water which is within or belongs to the city, or any of them or any part thereof, for the construction, operation, or maintenance in, along, upon, across, above or under the surface thereof of railroads, conduits, subways, pipes, and all and any other means of carriage, transportation or conveyance upon a fixed route, of persons or property, including any product, water, oil, gas, steam, air, electricity, or other fluid, element or elements, telegraph or telephone lines; also ferries, bridges, tunnels or other means of conveying passengers or property upon, above, across or under any of the waters or waterways within the territorial limits of the city. "Franchise" as herein defined shall not be deemed to include a license or permission or privilege to motors, automobiles, cabs, carriages, hacks, trucks or other vehicles for the transportation of persons or property plying for

hire in the streets and not following a fixed route or routes;

7. "Street" includes avenue, road, alley, lane, highway, boulevard, concourse, driveway, bridge, tunnel, subway, parkway, and every class of public road, square and place, except marginal wharf;

8. "Port of New York" includes all the waters of the North river and the East river and the harbor embraced within, adjacent to or opposite the shores of the city;

9. "Administrative code" means the administrative code of The City of New York enacted by the legislature;

10. "Water front property" means all the wharf property, marginal wharves, wharves, piers, docks, bulkheads, slips and basins, and the waters, land under water, upland and made land adjacent thereto, within the city, together with the easements, uses, reversions, rights, privileges and appurtenances belonging to the same; excepting:—

(a) Such upland or made land as constitutes a highway;

(b) The driveway authorized by chapter one hundred and two of the laws of eighteen hundred and ninety-three and acts amending the same; or .

(c) Such lands as have been or shall be acquired for public parks.

Sec. 6. The rights and title of the city in and to its water front property, ferries, public landings, parks, streets and the land thereunder, and all other public places and real property, are hereby continued in the city, and are declared to be inalienable except as in this act otherwise expressly provided.

Sec. 7. No franchise or right to use the streets, waters or rivers of the city or any part of or lands under said streets, waters or rivers, shall be granted under the authority of this act to any person or corporation for a longer period than twenty-five years, except as herein provided, but a grant may, at the option of the city, provide for giving to the grantee the right on a fair revaluation or revaluations to renewals not exceeding in the aggregate twenty-five years. Nothing herein contained shall apply to consents granted to tunnel railroad corporations, nor to grants made pursuant to the rapid transit act, chapter four of the laws of eighteen hundred and ninety-one or the acts amendatory thereof. The board of estimate and apportionment is hereby authorized, in its discretion, to grant a franchise or right to any railroad corporation to use any of the streets, waters or rivers for the construction and operation of a tunnel railroad underneath the surface thereof for any period not exceeding fifty years, and any such grant may at the option of the city provide for giving to the grantee the right, on a fair revaluation or revaluations, to renewals not exceeding in the aggregate twenty-five years, provided, however, that any grant to construct a tunnel railroad or renewal thereof, shall only be made after an agreement shall have been entered into by such a tunnel corporation to pay to the city at least three per centum of the net profits derived from the use of any tunnel which it shall construct, after there shall have first been retained by such company from such net profits a sum equal to five per centum upon the sum expended to construct such tunnel. At the termination of any franchise or right granted by the board of estimate and apportionment all the rights or property of the grantee in the streets, waters or rivers shall cease without compensation. Every grant of a franchise and every contract made by the city in pursuance thereof shall provide, either that upon the termination of the franchise or right granted by the board of estimate and apportionment the plant of the grantee, with its appurtenances, shall be and become the property of the city without further or other compensation to the grantees; or that upon such termination there shall be a fair valuation of the plant which shall be and become the property of the city on the termination

of the contract on paying the grantee such valuation. If by virtue of the grant or contract the plant is to become the city's without money payment therefor, the city shall have the option either to take and operate the said property on its own account, or to lease the same for a term not exceeding twenty years. If the original grant shall provide that the city shall make payment for the plant and property, such payment shall be at a fair valuation of the same as property, excluding any value derived from the franchise; and if the city shall make payment for such plant, it shall in that event have the option either to operate the plant and property on its own account, or to lease the said plant and property and the right to the use of streets and public places in connection therewith, for limited periods, in the same or similar manner as it leases the ferries and docks. Every grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and the maintenance of the property in good condition throughout the full term of the grant. The grant or contract shall also specify the mode of determining the valuation and revaluations therein provided for.

Sec. 8. Every consent or agreement to the exercise of a franchise shall, unless otherwise expressly provided by law, be by resolution of the board of estimate and apportionment; and the contract for the exercise of the franchise shall be executed by, or on the authority of, the board, which shall, as the local authority having the control thereof, have the exclusive power, to consent, in behalf of the city, to the use of the streets or any portion thereof for any purpose specified in subdivision six of section five.

Sec. 9. To the end that the city may be enabled to make needful provisions for the navigation, intercourse and commerce of the city, and adequately to develop and secure the same now and in the future, it shall have the control as in this act provided, of the water front of the entire city, subject, however, to the rights of private owners of property, and also power to establish, construct, acquire, own, maintain and enjoy all ferries, public wharves, docks, piers, bulkheads, basins, slips, streets, approaches and spaces and all other public structures, adjuncts and facilities necessary or proper for the navigation, intercourse and commerce, foreign and domestic, of the city. To these ends in addition to all grants heretofore made, there is hereby granted in fee and confirmed to the city in all the public streams, rivers, sounds, bays and waters of all descriptions at any and all places within or adjoining the limits of the city, all and singular the property, estate, right, title and interest of the people of the state of New York, in, to, of, and concerning such lands and soil covered by water, as are embraced within the projected boundary lines of any street intersecting the shore line, and which street is in public use or which may be hereafter opened for public use, extending from high water mark out into said streams, rivers, sounds, bays and waters so far (any limits in existing grants to the contrary) as the city shall now or at any time hereafter, in the opinion of its board of estimate and apportionment, require the same for ferries, public wharves, docks, piers, bulkheads, basins, slips or other public structures, adjuncts and facilities for navigation and commerce, including the right for such purposes to reclaim such lands from said waters, and including, also for riparian rights, and all rents, issues and profits of the premises herein granted. The commissioners of the land office shall from time to time convey or patent the lands herein granted to the city for said purposes, as and whenever required by the board of estimate and apportionment.

Sec. 10. Grants of land under water within the city shall be made only to the

city or to the riparian proprietor; but no grant shall be made to the riparian proprietor without the consent of the city, acting through the board of estimate and apportionment. Every grant to the city shall be subject to all the rights, if any, of the riparian proprietor, and before the city shall construct any wharf or other structure in front of the land of such proprietor, it shall make just compensation to him for the value of such rights. Whenever application shall be made by a riparian proprietor to the commissioners of the land office for a grant of land under water within the city, said commissioners shall forthwith give notice thereof to the board of estimate and apportionment, which, within thirty days thereafter, shall notify the commissioners whether or not it will consent to such grant. If said board shall consent to such grant, it shall notify said commissioners of the terms and conditions upon which its consent will be given, and such grant shall be made only upon such terms and conditions. The action of the commissioners of the land office upon or in connection with any such application shall be subject to judicial review in a proper proceeding brought by and in the name of the city or the riparian proprietor.

Sec. 11. No action shall be maintained against the city for the recovery of a sum of money unless it shall be specifically alleged in the complaint or moving papers that at least sixty days have elapsed without adjustment or payment since the presentation to the board of estimate and apportionment of the demand, claim or claims upon which such action is founded. Where the cause of action shall have accrued after the passage of this act, no action for damages for injuries to persons or to real or personal property or for the destruction thereof, alleged to have been sustained by reason of the negligence of the city, or the creation or maintenance of a nuisance by it or any of its officers or employees, shall be maintained against the city unless the action shall have been commenced within one year after the cause of action shall have accrued, and unless notice of the intention to commence the action, and of the time when and place where the damages were incurred or sustained, together with a verified statement showing in detail the property, if any, alleged to have been damaged or destroyed, and the value thereof, shall have been filed with the board of estimate and apportionment and with the corporation counsel, within six months after the cause of action shall have accrued.

Sec. 12. All actions wherein the city is a party defendant shall, subject to the powers of the court to change the place of trial in the cases provided by law, be tried in the county in which the cause of action arose, or in the county of New York.

Sec. 13. All existing and unexecuted contracts made by any department or officer whose functions are transferred by this act, shall be executed by the department or officer to whom such functions are transferred; and nothing herein contained shall affect any existing obligation or contract.

Sec. 14. Where a department has occasion to use a seal, it shall use the common seal of the city with the title of the department inserted therein; and the courts shall take judicial notice of the city and departmental seals.

Sec. 15. The City of New York shall continue to be divided into five boroughs, designated Manhattan, The Bronx, Brooklyn, Queens and Richmond; the boundaries whereof shall be as follows:

1. The borough of Manhattan shall consist of all that portion of the county of New York now or formerly known as Manhattan island, Nuttin or Governor's island, Bedloe's island, Bucking or Ellis island, the Oyster islands, and also Blackwell's island, Randall's island and Ward's island;

2. The borough of The Bronx shall con-

sist of all that portion of the county of New York lying northerly or easterly of the borough of Manhattan, between the Hudson river and the East River or Long Island sound, including the several islands belonging to the county of New York, not included in the borough of Manhattan;

3. The borough of Brooklyn shall consist of the territory known as Kings county;

4. The borough of Queens shall consist of the territory known as Queens county;

5. The borough of Richmond shall consist of the territory known as Richmond county.

## CHAPTER II.

### GENERAL PROVISIONS REGARDING THE DUTIES OF OFFICERS AND EMPLOYEES.

Sec. 16. All officers, boards, commissions and employees are hereby declared trustees of the property, funds, and effects of the city so far as such property, funds and effects are or may be committed to their management or control, and every taxpayer who shall pay taxes to the city is hereby declared to be a cestui que trust in respect to the said property, funds, and effects. Any cotrustee or any cestui que trust shall be entitled as against said trustees and in regard to said property, funds and effects, to all the rights, remedies and privileges provided by law for any cotrustee or cestui que trust and to maintain an action to prevent waste and injury to any property, funds and estate held in trust. Such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city, or by any cotrustee or cestui que trust. The remedies herein provided shall be in addition to those now provided by law.

Sec. 17. Any officer or employee who shall willfully violate or evade any provision of law, or by gross or culpable neglect of duty allow any public property to be lost to the city, shall be deemed guilty of a misdemeanor, and, in addition to the penalties imposed by law, shall on conviction forfeit his office or employment, and shall be disqualified from holding office or employment under the city government.

Sec. 18. No officer or employee of the city shall be or become interested, directly or indirectly, as contracting party, partner, stockholder or otherwise, in any contract, work or business, or in the performance or conduct thereof, or in the sale of any article, except as provided in section one hundred and ninety-two of this act, the expense, price or consideration of which is payable either from the city treasury, or by any assessment levied under or by virtue of any act or resolution of the board of estimate and apportionment or other body or officer of the city; nor shall any officer or employee be interested in any manner, directly or indirectly, in the purchase or lease of any real estate or other property which shall belong to or be taken by the city or which shall be sold either for taxes or assessments, or by virtue of legal process at the suit of the city. Any officer or employee who while holding office or employment, shall knowingly become interested in the performance of any contract, work or business or in the sale of any article or in the purchase or lease of any real estate or other property hereinabove referred to, or shall acquire any interest therein, except by will or under the decedents' estate law, shall forfeit his office or employment and be guilty of a misdemeanor. All contracts in which any officer or employee is or becomes interested shall, at the option of the board of estimate and apportionment, be forfeited and void. Any officer or employee who in consideration of his nomination, appointment,

election, or employment, shall, either prior or subsequently thereto, give or promise to give any portion of his salary or compensation or any money or valuable thing to any person, shall forfeit his office and employment and shall be disqualified from holding office or employment under the city government. Such forfeiture and disqualification shall be in addition to and not exclusive of any other penalty prescribed by law.

Sec. 19. No expense shall be incurred by any department, officer or employee unless an appropriation shall previously have been made covering such expense and there shall be an unexpended balance sufficient to meet such expense at the time it is incurred.

Sec. 20. Each and every officer and employee charged with the duty of expending moneys raised by tax in the city or any of the counties included therein, or of incurring obligations payable therefrom, shall so regulate such expenditures for any purposes that the same shall not in any one year exceed the amount appropriated by the board of estimate and apportionment for said purposes. No charge, claim or liability for any purpose shall be created against the city or any of the counties included therein for any sum in excess of the amount appropriated therefor.

Sec. 21. 1. No officer or employee shall during the term for which he shall have been elected, appointed or employed, hold any other public office or employment, federal, state or local, except notary public, commissioner of deeds or an office in the national guard. Where special provision is made by law, an officer may hold another office ex officio without salary.

2. The acceptance by any officer or employee of an appointment by any court as trustee in bankruptcy, receiver, referee, commissioner in condemnation proceedings, or commissioner of estimate, appraisal or assessment shall vacate his office and terminate his employment.

3. A person who shall be nominated for an elective office while holding an appointive office or employment in the service of the city shall vacate his office or employment unless he shall decline the nomination at the time and in the manner provided by the election law.

4. No employee shall, directly or indirectly, contribute to any political fund, or be or become a member of, contribute to, or take part in, any club or association intended or attempting to effect legislation for or on behalf of any department, officer or employee; or directly or indirectly contribute in any manner in aid of legislation in respect of his salary, wages or emoluments; or appear before the legislature or the council or any committee of either, to promote or oppose, directly or indirectly, the passage of any such legislation, except in obedience to a subpoena commanding him to do so.

5. No person in the classified civil service of the city shall be an officer or member of any political committee, or a delegate or alternate to any political convention, except in the performance of his official duty; and any person violating any of these provisions shall thereby forfeit his office, position or employment, and all salary, pay and emoluments thereof; but the prohibition contained in subdivisions one, two and three of this section shall not apply to an officer or employee who receives no salary or compensation from the city.

Sec. 22. An office shall become vacant upon the incumbent's ceasing to be a resident of the city, or of the borough or other political division of which he is required to be a resident when elected or appointed.

Sec. 23. The mayor, the president of the council, the comptroller and the borough presidents respectively, may be removed by the governor in the same manner as sheriffs, except that the governor may direct the inquiry provided by law to be conducted by the attorney-general.

After the charges shall have been received by the governor, he may, pending the investigation, suspend the officer affected thereby for a period not exceeding sixty days.

Sec. 24. No elective officer who shall have been removed from office under any provision of this act shall be eligible to election or appointment to fill the vacancy caused by his removal.

Sec. 25. In case of a vacancy from any cause in the office of president of the council, comptroller, borough president or member of the council, the person appointed to fill such vacancy until a successor be elected, shall be a member of the same political party as the last incumbent of the office. No person shall be chosen to fill a vacancy in any such office unless he possess the qualifications therefor prescribed in this act.

Sec. 26. Except as otherwise specially provided by law, every officer or employee of the city or any county included therein receiving any fees or emoluments under any statute shall account therefor to the chamberlain and pay the same into the city treasury.

### CHAPTER III.

#### THE COUNCIL.

Sec. 27. The legislative power of the city shall, except as otherwise provided in this act, be vested in one house to be known and styled as the council of the city of New York.

Sec. 28. 1. There shall be a president of the council, who shall be elected at the same time and in the same manner as the mayor and for a similar term. No person shall be eligible to the office of president of the council who is not eligible to the office of mayor.

2. He shall preside over all meetings of the council and shall have a voice and vote therein except as provided in section thirty-two, subdivision three, of this act.

3. His salary shall be fifteen thousand dollars a year.

Sec. 29. A vacancy in the office of president of the council shall be filled by appointment by the remaining members of the board of estimate and apportionment, each casting one vote; their appointee to hold office until the first day of January succeeding the first annual election after the happening of the vacancy.

Sec. 30. 1. The council shall be composed of thirty-nine councilmen, one to be elected from each of the thirty-nine council districts of the city, and the president of the council.

2. The council shall at its first meeting elect a vice-chairman. Whenever the president of the council shall be sick, absent from the city, under suspension, or acting as Mayor, or while a vacancy shall exist in his office, the vice-chairman shall possess his powers, perform his duties and be a member of every board of which the president is a member by virtue of his office.

3. Every head or acting head of a department shall be entitled to sit in the council and shall have the right to participate in the discussions thereof, but not the right to vote. Whenever required by the council, he shall attend its meetings and answer all questions asked by any councilman relating to the affairs of his department, provided that at least forty-eight hours before the meeting he shall have had written notice of such questions. If a department be composed of more than one member the president or chairman thereof shall be entitled to such seat.

4. The first meeting of the council in each year shall be held at noon on the first Monday of January.

5. The council may appoint a sergeant-at-arms and such other assistants as may be necessary to the orderly conduct of its business.

6. At its first meeting in January, nineteen hundred and ten, and at its first

meeting in January in every second year thereafter, the council shall appoint a clerk of the council who shall act also as city clerk and shall hold office for two years and until the election of his successor.

7. The council shall prescribe the duties of all officers and employees appointed by it and may make rules and regulations; not inconsistent with the provisions of this act or the administrative code, for the conduct of the public business in their offices.

8. Councilmen shall serve without salary or compensation.

9. The mayor may at any time call a special meeting of the council; and shall do so whenever requested in writing by not less than fifteen councilmen.

Sec. 31. 1. No council district shall embrace territory lying within more than one borough. The boundaries of the council districts shall in the first instance be fixed in the administrative code. There shall be fourteen districts wholly in the borough of Manhattan, eleven wholly in the borough of Brooklyn, six wholly within the borough of The Bronx, five wholly in the borough of Queens, and three wholly in the borough of Richmond.

2. In the year nineteen hundred and seventeen and during the month of July, and in the same month every sixth year thereafter, the council may alter the council districts, so that the several districts within the same borough shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall consist at all times of contiguous territory. The total number of council districts shall not be increased, but shall be apportioned among the boroughs in a ratio based as far as practicable upon population. There shall not be less than five council districts in the borough of Queens nor less than three in the borough of Richmond.

Sec. 32. 1. The councilmen shall be elected at the general election to be held in the year nineteen hundred and nine, and every two years thereafter, and hold office commencing the first day of January following the election.

2. Any elector who shall have been a citizen of the United States and a resident of the city for at least five years immediately preceding his election shall be eligible to the council for any council district in which he shall have resided continuously for at least one year immediately preceding his election.

3. Any vacancy in the office of councilman shall be filled for the unexpired term by election by a majority of all the councilmen representing the borough containing the council district in which the vacancy occurs. At any such election the president of the council shall preside, but shall have no vote unless the councilmen shall possess the qualification requisite for election in the first instance.

4. The council shall be the judge of the election returns and qualifications of its members; but its determinations shall be subject to review by certiorari in any court of competent jurisdiction.

Sec. 33. A majority of all the councilmen shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as the council may prescribe. The sessions of the council shall be public. It may determine the rules of its proceedings, punish its members for disorderly behavior and, with the concurrence of two-thirds of all the members, expel a member. It shall keep a journal of its proceedings, wherein the ayes and noes taken on any question at the desire of any two members shall be entered. The ayes and noes shall be called and recorded on the final passage of every ordinance.

Sec. 34. The council is hereby vested with full and complete power and authority to enact all ordinances necessary

for the protection and preservation of life, health and property in the city; for the prevention and summary abatement and removal of nuisances therein; for the establishment, preservation and enforcement of good government, order and security of the inhabitants of the city; for the suppression of vice; and for the enforcement of all such ordinances by fines or penalties, or otherwise. The council shall have power and authority also to enact ordinances prescribing regulations in respect to the making of contracts to be made or let for work to be done for the city or supplies to be furnished thereto, except as in this act otherwise provided.

Sec. 35. The council may alter, amend or repeal the administrative code as expressly provided therein.

Sec. 36. 1. Every legislative act of the council shall be by ordinance, and no ordinance shall be passed except by the vote of a majority of all the councilmen.

2. The style of ordinance shall be: "Be it ordained by the council of the city of New York as follows:"

3. All ordinances shall be general in their application, and no special ordinance shall be enacted; except that the council may enact ordinances applicable in one or more of the boroughs and not the city generally.

4. No ordinance shall be passed until it shall have been printed and upon the desks of the members, in its final form, at least three days prior to its final passage, unless the mayor shall have certified to the necessity for its immediate passage. Upon the last reading of an ordinance, no amendment thereof shall be allowed.

Sec. 37. Every ordinance shall, after its adoption by the council, be presented, duly certified, to the mayor. If he approve it, he shall sign it; and it shall then be deemed to have been passed and shall take effect in accordance with its provisions. If he disapprove it, he shall return it, with his objections, to the council, which shall enter the objections at large upon its journal and may proceed to reconsider the ordinance after ten days and within fifteen days after it shall have been returned to the council. If after such reconsideration, the ordinance receive the affirmative votes of at least two-thirds of the councilmen, it shall then be deemed to have passed. If upon the first vote upon such reconsideration an ordinance fail to receive the stated number of affirmative votes, it shall be deemed finally lost. If within ten days (Sundays excepted) after an ordinance shall have been presented to him, the mayor shall neither approve it nor return it with his objections, his disapproval shall be presumed and the council may recall the ordinance and reconsider it within the same time and in the same manner as if it had been returned with objections at the expiration of the ten days aforesaid.

Sec. 38. The ordinances in force in the city of New York on the thirty-first day of December, nineteen hundred and nine, are, so far as they are not inconsistent with this act, continued in full force and effect, subject to modification, amendment or repeal by the council. But all ordinances or resolutions heretofore adopted affecting or relating to franchises, or consenting or agreeing to the exercise of any franchise as defined or referred to in sections five, seven and eight of this act; shall be subject to modification, amendment or repeal by the board of estimate and apportionment in like manner and to the same extent as they have heretofore been subject to modification, amendment or repeal by the board of aldermen, municipal assembly or other legislative body of the city of New York or of the several municipal corporations and parts thereof united and consolidated to form the city of New York.

Sec. 39. The ordinances in force on the thirty-first day of December, nine-

teen hundred and nine, shall, so far as practicable, be reduced to a code and published. The code of ordinances of the city shall be revised by the council in the year nineteen hundred and ten and in every fifth year thereafter. All ordinances adopted during each calendar year shall be compiled and published on or before the first day of March of the succeeding year.

Sec. 40. The council shall not:

1. Enter into, modify or in any manner alter the terms of any contract for any public work or improvement whatsoever, or release any contractor with the city or any department from any fine or penalty incurred under his contract, or extend the time of performance of any contract; or pass any ordinance or resolution authorizing any officer so to do;

2. Audit or allow any claim against the city.

Sec. 41. The council may appoint commissioners of deeds who shall hold office for two years from the date of appointment. Such appointments shall not require the approval of the mayor.

Sec. 42. The council may at any time appoint a special committee to inquire whether the laws and ordinances relating to any subject or department of the city government are being faithfully observed, and the duties of the officers and employees of the city or any department thereof are being faithfully discharged, and to examine and report whether there are any unnecessary, inefficient or unfit employees, excessive salaries, wages or compensation paid, and to inquire generally in respect to any and all matters which will conduce to the orderly and economical administration of the business of the city or any department thereof. Such committee shall have access to the books and records of the city and of any department, officer or employee thereof, and for the purpose of any such inquiry shall have the powers conferred upon an officer, person, board or committee by sections eight hundred and forty-three and eight hundred and fifty-four of the code of civil procedure.

Sec. 43. The council shall have such power and perform such duties in respect to the budget and the tax levy as are prescribed in sections sixty and sixty-one and one hundred and twenty-six.

## CHAPTER IV.

### EXECUTIVE.

Sec. 44. 1. The executive power of the city shall be vested in the mayor.

2. No person shall be eligible to the office of mayor unless he shall have been a citizen of the United States and a resident of the city for at least ten years preceding his election.

3. The salary of the mayor shall be twenty-five thousand dollars a year.

Sec. 45. The mayor shall be elected by the voters of the city at large at the general election in the year nineteen hundred and nine, and every four years thereafter, and shall hold his office for a term of four years commencing on the first day of January next after his election.

Sec. 46. 1. Whenever there shall be a vacancy in the office of mayor, the president of the council shall become mayor until the first day of January succeeding the first annual election after the happening of such vacancy.

2. In case of the mayor's suspension from office or absence from the city or of his being prevented by sickness from attending to the duties of his office, the president of the council shall act as mayor and possess all the rights and powers of the mayor during such suspension, absence or sickness, except as in this section otherwise provided.

3. Whenever the president of the council shall act as mayor in consequence of the mayor's suspension from office, he

shall not exercise any power of appointment or removal from office.

4. Whenever the president of the council shall act as mayor in consequence of the mayor's absence from the city or sickness, he shall not exercise any power of appointment to or removal from office unless such absence or sickness shall continue for at least thirty days;

5. The president of the council shall not sign, approve or disapprove any ordinance or resolution, unless the suspension, absence or sickness of the mayor shall have continued for at least nine days.

Sec. 47. It shall be the duty of the mayor:

1. To communicate to the council, at least once in each year, a general statement of the finances, government and improvements of the city;

2. To be vigilant and active in causing the ordinances of the city and law of the state to be executed and enforced;

3. And generally to perform all such duties as may be prescribed for him by this act, the administrative code, the laws of the state, and the ordinances of the city. He shall prescribe the duties of all officers and employees in his office.

Sec. 48. 1. The mayor shall appoint and may at pleasure remove all heads of departments, the commissioner of inquiry, the members of the art commission and the members of every board and commission whose salaries or expenses are paid out of the city treasury, whose appointment or election is not otherwise expressly provided for by this act or by law; but the trustees of the College of the City of New York shall be exempt from removal except as provided in the administrative code.

2. He shall appoint justices of the courts of special sessions and city magistrates. A vacancy occurring otherwise than by expiration of term in the office of justice of the municipal court shall be filled by appointment by the mayor until the first day of January succeeding the first annual election after the happening of such vacancy.

3. He may appoint a board to be known as the advisory board on city plan, to consist of such landscape architects, civil engineers and other persons as he may select, the members thereof to serve without salary and to act in conjunction with the board of estimate and apportionment in devising, formulating and advocating a plan or plans for the comprehensive development and improvement of the streets, parks and public places.

Sec. 49. The mayor shall appoint a municipal civil service commission to consist of three members, not more than two of whom shall be of the same political party. The commission shall have the jurisdiction and powers conferred upon such a commission by the civil service law of the state.

Sec. 50. 1. The commissioner of inquiry, with the approval of the mayor, may appoint and at pleasure remove two deputies, one of whom shall be an attorney and counselor-at-law admitted to practice in the courts of this state at least five years prior to the date of his appointment. The commissioner, his deputies and their subordinates shall constitute the bureau of examination in the mayor's office.

2. Subject to the civil service law, the subordinates of the bureau shall be appointed by the commissioner of inquiry with the approval of the mayor.

3. The commissioner and deputy commissioners shall make investigations into the affairs of any office or department of the city or any division thereof, or of any county included within the city, and the manner of conducting the public business therein. They shall report the result of any such investigation to the mayor whenever thereto by him directed. The mayor shall have exclusive discretion and power to determine the scope of any such investigation.

4. The commissioner of inquiry and his

deputies shall have power to compel the attendance of witnesses and the production of books, documents and other papers, to administer oaths and to examine such persons as he or they may deem necessary.

Sec. 51. There shall be the following administrative departments, each of which shall, unless otherwise stated, be presided over by a single head:

1. Finance department, the head of which shall be the comptroller;

2. City treasury, the head of which shall be the chamberlain;

3. Tax department, the head of which shall be known as the board of taxation;

4. Law department, the head of which shall be known as corporation counsel;

5. Police department, the head of which shall be known as police commissioner;

6. Health department, the head of which shall be known as the health board, to consist of the health commissioner, the police commissioner, and the health officer of the port;

7. Fire department, the head of which shall be known as fire commissioner;

8. Department of education, the head of which shall be known as the board of education;

9. Department of docks and ferries, the head of which shall be known as dock commissioner;

10. Park department, the head of which shall be known as the park board;

11. Department of water supply, the head of which shall be known as water commissioner;

12. Department of street control, the head of which shall be known as street commissioner;

13. Bridge department, the head of which shall be known as bridge commissioner;

14. Building department, the head of which shall be known as building commissioner;

15. Tenement house department, the head of which shall be known as tenement house commissioner;

16. Charities department, the head of which shall be known as charities commissioner;

17. Department of correction, the head of which shall be known as commissioner of correction;

18. Bellevue and allied hospitals, the head of which shall be known as the board of trustees of Bellevue and allied hospitals.

## CHAPTER V.

### BOARD OF ESTIMATE AND APPORTIONMENT.

Sec. 52. There shall be a board of estimate and apportionment, composed of the mayor, the president of the council, the comptroller and the five borough presidents, of whom the mayor, the president of the council and the comptroller shall each be entitled to cast three votes, the presidents of the boroughs of Manhattan and Brooklyn each two votes, and the presidents of the boroughs of The Bronx, Queens and Richmond each one vote. A quorum shall consist of members of the board entitled to cast at least nine votes, but must include at least two members entitled to cast three votes each. No resolution or amendment of any resolution shall be passed at the meeting at which it shall have been originally introduced, unless twelve votes shall have been cast for its adoption. Wherever the words "the board" appear in this chapter, they shall be taken to mean the board of estimate and apportionment.

Sec. 53. A borough president shall be elected in each borough by the voters thereof, at the same time as the mayor and for a similar term. No person shall be eligible for the office of borough president unless he shall have been a citizen of the United States and a resident of the borough for at least five years immediately preceding his election.

1. A vacancy in the office of borough president shall be filled by appointment by the remaining members of the board of estimate and apportionment, each casting one vote, their appointee to hold office until the first day of January succeeding the first annual election after the happening of such vacancy.

2. The salary of a borough president shall be ten thousand dollars a year.

Sec. 54. 1. The first meeting of the board in every year shall be called by written notice from the mayor, duly mailed to the members. Subsequent meetings shall be called as the board may direct.

2. Except as otherwise provided by law, every act of the board shall be by resolution adopted by a majority of the whole number of votes authorized to be cast by the board.

3. The mayor shall preside at all meetings of the board; in the absence of the mayor the president of the council shall preside.

Sec. 55. Except as otherwise specifically provided in this act, each borough president shall devote his time and attention exclusively to the business and duties of the board. The board may assign to one or more of the presidents such special duties as to it may seem proper.

Sec. 56. Every resolution authorizing or relating to the expenditure of money shall, after its adoption by the board, be presented to the mayor. If he approve, he shall sign it and it shall then take effect; if he disapprove, he shall return it to the board with his objections and the board shall enter the same at large upon its minutes and may then reconsider the resolution. If after such reconsideration it shall have received the affirmative votes of members of the board entitled to cast in the aggregate at least ten votes, it shall take effect.

Sec. 57. In addition to such other bureaus as it may establish, there shall be under the board:

1. A bureau of public improvements and engineering, the head of which shall be an engineer, resident in the city, of at least ten years' professional experience, who shall be known as "city engineer;"

2. A bureau of franchises, the head of which shall be known as "chief of the bureau of franchises;"

3. A bureau of real estate, the head of which shall be known as "chief of the bureau of real estate;"

4. A bureau of claims, the head of which shall be known as "chief of the bureau of claims;"

5. A bureau of salaries, which shall classify and grade all officers and employees and their salaries and wages, the head of which shall be known as "chief of the bureau of salaries;"

6. A bureau of statistics and publicity, the head of which shall be known as "chief of the bureau of statistics and publicity;"

7. A bureau of supplies, the head of which shall be known as "chief of the bureau of supplies."

Sec. 58. Each of the bureaus shall have the powers and perform the functions and duties prescribed therefor in the administrative code, and shall, subject to such provisions, be under the control and direction of the board, which shall prescribe the duties of the officers and employees thereof and may make all necessary rules and regulations with respect thereto.

Sec. 59. 1. Except as otherwise expressly provided by law, the board shall fix and may alter the salary or compensation of every officer, employee or person other than day laborers whose compensation shall be paid out of the city treasury, including the sheriff, the district attorney and the county clerk of each county within the city, the register of the county of New York and of Kings, and their respective subordinates.

2. The salary and compensation of every appointive officer or employe, whose office

or position, other than that of day laborer, is not abolished by this act or the administrative code, shall, until changed by the board, continue at the amount fixed at the time this act takes effect.

3. No extra compensation shall be granted to any officer or employe:

4. No compensation beyond the salary, wages or compensation fixed in the budget for the position or grade of any city officer or employe shall be granted or paid, nor shall any salary, wages or compensation so fixed be increased during the budgetary year.

5. Salaries, wages and compensation for like positions or grades shall be uniform throughout each borough, but need not be uniform throughout the city.

Sec. 60. 1. The board shall annually, between the first day of October and the first day of November, meet and make a budget of the amounts estimated to be required to pay the cost for the ensuing year of conducting the public business of the city and of the counties included therein.

2. The budget shall show in such detail as may be practicable the items of all appropriations for each department, bureau, office, board or commission, and the terms and conditions under which, conformably with law, the same may be expended. It shall further show in such detail as the board may deem advisable the estimated receipts of each department, bureau, office, board or commission. To enable the board to make the budget, the heads of departments, bureaus, offices, boards and commissions shall in such detail and at such date or dates as the board may direct, but not later than September tenth in each year, send to the board an estimate in writing to be known as a departmental estimate, of the amount of expenditure, specifying the objects thereof, required for their respective departments, bureaus, offices, boards or commissions for the ensuing year. Duplicates of these departmental estimates and statements shall be sent at the same time to the council.

3. The budget shall show by separate tables the sources of all revenues of the city and the estimated receipts from each, including the sources and receipts of the general fund for the reduction of taxation and the several sinking funds enumerated in section seventy-five of this act.

4. Before finally determining upon the budget, the board shall fix a time or times for hearing taxpayers of the city in regard thereto. Within five days after the budget shall have been made by the board, it shall be transmitted to the council.

5. Simultaneously with its transmission to the council, the budget shall be published in the City Record and the mayor shall call a special meeting of the council to consider it. Consideration of the budget by the council shall continue from day to day until final action is taken thereon, but shall not continue beyond twenty days. If the council shall take no action within such time, the budget shall be deemed to be finally adopted as transmitted by the board. Except as otherwise provided by law, the council may reduce or reject any or all of the items of the budget for salaries and for supplies and improvements. It shall not increase any item or vary the terms or conditions thereof or insert any new items. Its action in reducing or rejecting any item shall be subject to the veto power of the mayor, and unless such veto be overridden by a three-fourths vote of the council, the item fixed by the board shall stand.

Sec. 61. 1. Prior to December twenty-fifth in each year, the budget as finally adopted shall be certified by the mayor, comptroller and city clerk, whereupon the several sums mentioned therein shall be and become appropriated to the several purposes therein named. On or before December thirty-first in each year the budget shall be filed in the office of the comptroller and published in the City Record.

2. At least four weeks before the annual meeting of the council called for the purpose of determining the rate of taxation, the comptroller shall prepare and submit to it an estimate of the receipts and revenues of the general fund for the reduction of taxation during the year then current. He shall at the same time certify to the council the aggregate amount fixed in the budget to be raised by taxation.

3. The council shall meet at noon on the first Monday of July in each year at its usual place of meeting in the borough of Manhattan, or if said first Monday fall on a legal holiday the council shall meet at noon on the next succeeding day at said time and place, and at such meeting shall deduct from the aggregate amount fixed in the budget to be raised by taxation as certified by the comptroller the amount of the said estimated receipts and revenues of the general fund for the reduction of taxation, and shall thereafter cause to be raised by tax the balance of such aggregate amount after making such deduction.

Sec. 62. The budget shall make provision for: 1. Salaries, wages or compensation of all city officers and employees; the cost of equipment, repairs, renewals and supplies required for the administration and maintenance of each department, bureau, office, board and commission of the city, including the dock department and educational and other institutions supported wholly or partly by the city pursuant to existing provisions of law;

2. Rent of suitable buildings or offices in buildings not owned by the city necessary for the use of departments, bureaus, officers, boards and commissions;

3. The expenses of the registration of voters; of the compilation and publication of the registry of voters; and of all elections held in the city during the year;

4. Salaries, wages and compensation of officers and employees of counties wholly included in the city, and all other expenses of said counties properly chargeable to the counties or any of them as distinguished from city charges;

5. The additional compensation due according to law to justices of the supreme court from judicial districts, other than the first and second, who shall hold court within the city;

6. The compensation due according to law to justices of the supreme court and county judges, surrogates and judges of the court of general sessions within the city, and the expenses necessary for the administration of justice therein;

7. The compensation due according to law to judges of the city court, justices of the courts of special sessions and of the municipal court and the city magistrates, and the expenses necessary for the administration of justice in the courts of inferior jurisdiction of the city;

8. The cost of publishing in the daily law journal designated by the justices of the appellate division of the supreme court in the first department, the calendars of state courts of record in the city;

9. The cost of maintaining and purchasing law books for the law library of the appellate division of the first department, the law library of the supreme court in the first judicial district, and the supreme court library in the borough of Brooklyn;

10. Maintenance and expenses of free public libraries, including branch and traveling libraries, which have heretofore been maintained, in whole or in part, by the public funds of the city;

11. The salaries and expenses of administration of the public service commission in the first district, and of other commissions and boards required by law to be paid out of the city treasury.

ury, except of the board of water supply of The City of New York;

12. The cost of compiling and publishing the annual record of the assessed valuation of real estate; of publishing the City Record, and of all advertising required by law;

13. All sums authorized by the administrative code to be raised and paid for the relief of poor adult blind persons and the education and support of the blind, of the deaf and dumb, and of juvenile delinquents, and for the care, support, maintenance and secular education of inmates of orphan asylums, protectories, or homes for dependent children, to correctional institutions, and to charitable, educational, eleemosynary, correctional or reformatory institutions, wholly or partly under private control, and having their main office in the city, for care, support, maintenance or education of the inmates thereof; such payments to be made only for such inmates as are received and retained therein pursuant to rules established by the state board of charities;

14. The quota of state taxes imposed and chargeable upon the city and the counties wholly included therein;

15. Sums required for the several pension funds as provided in the administrative code; but no such sums shall be provided for any pension fund unless in connection therewith the budget shall show an estimate in detail of the receipts from all sources of such pension fund;

16. The amount of taxes levied prior to the preceding first day of January deemed by the board to be uncollectible, so far as the same shall not have been provided for in prior tax levies or by the issue of corporate stock;

17. Annual interest upon the city debt;

18. The annual quota for the redemption of the city debt, including instalments payable during the ensuing budgetary year;

19. Such sums as may, in addition to the accumulations of any sinking fund, be necessary to redeem any obligation of the city payable out of such sinking fund and maturing during the next calendar year;

20. The annual interest on general fund bonds issued pursuant to the provisions of section ninety-eight of this act;

21. The redemption of special revenue bonds issued during the preceding year;

22. Such other appropriations, not specifically provided for in this act, as the board shall have determined, by the votes of members entitled to cast at least twelve votes, to be necessary for the maintenance, during the year, of the government of the city or of any county included therein. In addition to the foregoing, the budget may contain an appropriation, to be included among the appropriations for the purposes of the board, of such sum as it may deem necessary, not exceeding two million dollars in any one year, for the purpose of supplying funds for emergencies for which provision is not otherwise made in this act or in the administrative code. But no payment shall be made from such appropriation unless authorized by the votes of members of the board entitled to cast at least twelve votes. Balances of appropriations remaining unexpended at the close of the fiscal year for which they shall have been made, shall, after the allowance of a sufficient sum to satisfy all claims payable therefrom and within sixty days after the expiration of such year, be paid into the general fund for the reduction of taxation.

Sec. 63. All moneys received from the state or from any department, board or officer thereof, to or for the use of the city or any department thereof, the disposition of which shall not be specifically provided for by law shall be paid into the general fund for the reduction of taxation.

Sec. 64. Except as in this act otherwise specifically provided, the board shall have power upon such terms and conditions as may seem to it for the best interests of the city:

1. To authorize the issue of the several classes of obligations enumerated in chapter seven of this act;

2. To change the map or plan of the city so as to lay out new streets, parks, bridges or tunnels, to widen, straighten, extend, alter or close existing streets, and to fix, establish or change the grade of any street. No street shall be closed in whole or in part, unless the board shall decide that the street, or so much thereof as is to be closed, is no longer needed for public purposes.

3. To assign to other specific public use any property of the city or of any county included therein determined by the board to be no longer required for the purpose for which it was acquired or is used;

4. To exchange real property of the city, or of any county included therein, no longer needed for a public purpose, for real property of equal or greater value within the same borough, provided the board shall determine such property to be needed for a public purpose;

5. To settle and adjust, by mutual conveyances or other appropriate instruments, disputes about boundary lines, and to release such interests of the city in real estate as the corporation counsel shall certify in writing to be mere clouds upon title;

6. To sell and convey the right, title and interest of the city in and to lands lying within any street that may have been closed in whole or in part, to the owners of land fronting on the part of the street so closed, provided the board shall first determine that the land so sold and conveyed is not needed for any public use;

7. To sell at the highest price at public auction or by sealed bids, after public advertisement in the City Record for a period of at least fifteen days, and after appraisal made under the direction of the board within three months immediately preceding the date of sale, when no longer needed for a public purpose, any city or county property, except ferries, parks and water-front property. Except as otherwise provided by law, the proceeds of any sale other than of personal property, shall on receipt, after the deduction of necessary charges, be paid to the credit of the "sinking fund of the city of New York for the redemption of the city debt." The proceeds of any sale of land in the county of New York and the buildings thereon, occupied or reserved for school purposes and no longer required therefor, shall be paid into the "sinking fund of the city of New York for the redemption of the city debt" if the property was acquired prior to January first, eighteen hundred and ninety-eight, but if acquired subsequently, such proceeds shall be paid into "the sinking fund of the city of New York." The proceeds of sale of personal property, except as otherwise provided in this act, shall be paid into "the general fund for the reduction of taxation";

8. To lease in like manner as provided for sales in subdivision seven of this section, any city or county property except parks, streets, ferries and water front property; but no lease or any renewal thereof shall be for a longer term than ten years, except as otherwise specifically provided in this act. All rentals shall, after the deduction of necessary charges, immediately be paid to the credit of "the sinking fund for the redemption of the city debt," except as by law otherwise provided;

9. To lease all or any part of the rights, title and interest heretofore or hereafter acquired by the city in and to any lands outside the city for the sanitary protection of the water supply, and to grant in perpetuity or for shorter periods, subject to such restrictions as

the board may deem proper, rights, easements, or right of way in, over, under or across any such lands for highway or other purposes, or for the improvement of the facilities and public service of railroads lawfully located thereon, provided no such lease or grant shall be made unless the board shall first determine that the said lands or interests therein so leased, granted or conveyed, are to be used or enjoyed for a purpose which is consistent with the sanitary protection of the water supply of the city, and provided that every such grant or lease shall contain covenants restricting the use of such lands or interest therein in accordance with the determination of the board;

10. To rent any real estate or buildings for the use of the city or of any of the counties wholly included therein, including premises for armories and drill rooms and places for the safe-keeping of arms, uniforms, equipments, accoutrements and camp equipage of the national guard;

11. To assign the places where courts of general sessions and inferior local courts shall be held; to change the place of holding any such courts; to assign and designate police stations for the detention of prisoners; to designate for all purposes for which common jails may by law be used any building or buildings within the city to be common jails thereof or of any of the counties wholly included therein; such building or buildings to remain such common jails until other buildings shall be designated for any such purpose;

12. To select, locate and lay out sites for playgrounds and school farms;

13. To select all sources of water supply needed for the supply and distribution of water, and acquire by purchase, lease or otherwise any real property as defined in section two hundred and eighty-one of this act, necessary to secure the sole and exclusive property in any source of water supply determined upon, and wholly to distinguish the water rights of any person therein, with the right to lay, relay, repair and maintain aqueducts, conduits and water pipes with the connections and fixtures on the lands of others; for the purpose of conducting water to the city, to intercept and direct the flow of water from the lands of riparian owners and from persons owning or interested in any water; and to prevent the flow or drainage of noxious or impure matter from the lands of others into its reservoirs or sources of water supply;

14. To acquire by lease, purchase or otherwise, real property as defined in section two hundred and eighty-one of this act, needed for any city purpose;

15. To authorize the water commissioner to enter into contracts with any persons engaged in the business of supplying or selling water for private or public use and consumption, provided the proposed contract, in the exact form in which the same is to be executed, shall receive the approval of members of the board entitled to cast not fewer than twelve votes and the separate written approval of the mayor and the comptroller. All proceedings relating to the making or approval of any such contract, including the terms thereof, may be reviewed by the appellate division of the supreme court in the first and second department on the application of any resident taxpayer;

16. To cause water meters, of a pattern and price approved by it, to be placed in all or any places in which water is furnished by the city, for the purpose of measuring the same;

17. To determine any controversy with regard to jurisdiction or powers that may arise between any departments, its decision thereon to be final. No proceedings, negotiations or contract for the acquisition for any purpose of real property as defined in section two hundred and eighty-one hereof, the cost of which is to be paid by the city or by assessment, shall be be-

gun or entered into without the approval of the board.

18. To grant permission to any person authorized to operate or maintain wires and electrical conductors to remove the same from above the surface of any street or water-front property and to place them under ground;

19. To remove or cause to be removed wires and electrical conductors from above the surface of any street or water-front property and to place or cause the same to be placed under ground;

20. To regulate the stringing of wires, electrical conductors and other means of conveying electricity, gas, steam, air or other force or substance above or beneath the surface of any street or any water-front property, including the erection or construction of poles, conduits and other means for supporting or containing the same. The removal from above the surface and the placing under ground of wires and electrical conductors and the construction and erection of poles, conduits and other means of supporting or containing the same shall be done under the supervision of the street commissioner, in accordance with rules and regulations to be prescribed by the board.

21. To authorize any general or local improvement.

Sec. 65. The board shall devise and formulate a plan for the comprehensive development and improvement of all parks and streets under the control of the park board, so that as far as practicable each borough shall contain a connected and continuous park system. No plan adopted pursuant to this provision shall be changed in any particular without the express authority of the board of estimate and apportionment.

Sec. 66. The board may: 1. Inquire into, settle and adjust any claim against the city and authorize the payment thereof, whether or not an action be pending thereon, for work done, materials or supplies furnished, or services rendered, provided it shall appear to the board, after public examination of witnesses under oath by the board or any member thereof, that it is just for the city to pay the same without regard to any defense at law which the city may have thereto other than the statute of limitations; but the board shall not authorize the payment of any claim for services performed under an appointment or employment made in violation of the civil service law; but this section shall not be construed to permit the grant of any extra compensation to any public officer, servant or contractor;

2. Hear and determine any application for relief from an assessment, or any part thereof, for a local improvement, provided that the amount of the assessment as so readjusted shall be paid forthwith by the applicant; and no person who shall have made an application to the board for relief hereunder shall thereafter maintain an action or proceeding for relief from such assessment or any part thereof, or to set the same aside.

Sec. 67. The board shall, by written notice to the chamberlain, designate the banks or trust companies in which the moneys of the city shall be deposited, and may by like notice from time to time change the banks or trust companies thus designated; but no bank or trust company shall be so designated unless it shall agree to pay interest to the city on the daily balances of the city at a rate to be fixed by the board, which rate shall be fixed quarterly as of the first days of February, May, August and November in each year.

Sec. 68. The board shall prescribe the standard in any class of supplies needed for any purpose by any department, board, commission or officer of the city, and in any class of materials employed in any work performed for the city; and all contracts therefor shall require conformity to such standard. So far as the board may deem practicable, the terms,

conditions and specifications of all contracts shall be uniform.

Sec. 69. The board may require any officer or employee to execute and file an undertaking to the city for the faithful discharge of his duties. Every such undertaking shall be approved as to its form and sufficiency of the sureties by the board, and shall be filed with the city clerk.

Sec. 70. The board may prescribe and adopt general rules and regulations with respect to the form of keeping and rendering all city accounts, to the end that, as far as practicable, there may be a uniform system of departmental accounting. It may audit or cause to be audited the accounts of all officers, bureaus and employees charged with the collection and receipt of money for or in behalf of the city.

Sec. 71. In all cases where the board authorizes a local improvement to be made, it shall determine how much, if any, of the cost and expense thereof shall be paid by the city; and the remainder shall be assessed upon the property deemed to be benefited thereby. The determination by the board shall be final.

Sec. 72. On the fifteenth day of January, April, July and October in each year, the board shall publish a statement of the indebtedness of the city existing on the first day of the month of such publication. It shall annex thereto a statement of the assessed valuation of the real estate subject to taxation as it appeared by the assessment-rolls of the city on the last preceding assessment for state or county taxes. Each such statement of indebtedness shall show the amount of:

1. All corporate stock outstanding;
2. All assessment bonds outstanding;
3. All outstanding revenue bonds issued for account of unpaid taxes for years prior to the year of their issue;
4. Claims against the city in course of settlement not payable out of taxes or proceeds of revenue bonds or special revenue bonds; the amount to be shown in the statement shall be so much of the aggregate of all the claims as the board may deem sufficient to provide for the satisfaction thereof;

5. The estimated cost to the city of acquiring title to real estate in actual course of condemnation, in proceedings in which no award shall have theretofore been made, including taxable costs, disbursements, fees and expenses; the amount to be included in the statement shall be determined by the board from estimates furnished, upon its request, by the corporation counsel;

6. Unpaid awards and costs in condemnation proceedings, confirmed and unconfirmed;

7. The estimated expenditure other than from appropriations under all contracts signed by the head of any department, bureau, board or commission, whether or not certified by the comptroller;

8. All amounts standing to the credit of trust accounts on the books of the city. In determining the several amounts to be inserted in such statements, no deduction shall be made of cash received by the city from the sale of corporate stock or bonds other than revenue bonds or special revenue bonds, unless such cash shall have been specifically appropriated and set aside for the purposes, for which such stock or bonds were issued; nor shall any deduction be made of any uninvested cash in any of the sinking funds, or of any obligation of the city held by any of the sinking funds which, by the provisions of section ten of article eight of the constitution of the state is not to be included in ascertaining the power of the city to become indebted.

Sec. 73. The corporation counsel shall furnish to the board on or before the tenth day of September in each year a list of all reports in condemnation proceedings confirmed for the preceding twelve months with the amount of awards and costs taxed in each proceeding. The comptroller shall, on or before the same date, furnish the board with a statement

of the amounts of such awards and costs, and of the amounts paid thereon and due thereafter.

## CHAPTER VI.

### THE SINKING FUNDS.

Sec. 74. The board of commissioners of the sinking fund of The City of New York as heretofore constituted is abolished. All powers and duties heretofore by law or ordinance vested in or imposed upon the said board, or any board or body analogous thereto of the municipalities or parts thereof, heretofore united and consolidated to form the city, and of the counties within the city, are devolved upon the board of estimate and apportionment, which for the purposes of all such powers and duties shall become and be the commissioners of the sinking fund of the city. The term "board," wherever used in this chapter, shall mean the board of estimate and apportionment, acting as commissioners of the sinking funds. The board shall administer each of the several sinking funds of the city, and shall carry out the several trusts and fulfill the obligations relating thereto, in the same manner as the board of commissioners of the sinking fund of The City of New York were by law or ordinance required to do before the date when this act takes effect. The assets and accounts of each of said sinking funds shall, except as in this act otherwise provided, be kept separate and distinct, and the same shall in all respects be administered as independent trusts, subject to and governed by the several provisions of law or ordinance heretofore relating thereto, with the intent and purpose of preserving inviolate the rights of holders of bonds and stocks heretofore issued by any of the municipal and public corporations or parts thereof heretofore united and consolidated to form the city, including the counties of Kings and Richmond.

Sec. 75. The sinking funds are as follows and each of the same shall be continued and preserved inviolate until the purpose for which it was created shall have been fulfilled:

1. The "sinking fund of The City of New York for the redemption of the city debt," being the sinking fund for the redemption of the debt of the mayor, aldermen and commonalty of The City of New York as such corporation existed prior to January one, eighteen hundred and ninety-eight;

2. The "sinking fund of The City of New York for the payment of interest," being the sinking fund for the payment of interest accruing and to accrue upon the debt referred to in the preceding subdivision of this section;

3. "The sinking fund for the redemption of the city debt number two," being the sinking fund for the redemption of the water bonds of the mayor, aldermen and commonalty of The City of New York issued by the said corporation between the first day of January, eighteen hundred and eighty-four, and January one, eighteen hundred and ninety-eight;

4. "The sinking fund of the city of Brooklyn," being the sinking fund for the redemption of the debt, except for water purposes, of the city of Brooklyn, as the debt existed prior to January one, eighteen hundred and ninety-eight;

5. "The water sinking fund of the city of Brooklyn," being the sinking fund for the redemption of the bonds of the said city issued for water purposes prior to January one, eighteen hundred and ninety-eight;

6. "The sinking fund of Long Island City for the redemption of revenue bonds;"

7. "The sinking fund of Long Island City for the redemption of water bonds," issued by said city prior to January one, eighteen hundred and ninety-eight;

8. "The sinking fund of Long Island City for the redemption of fire bonds,"

issued by said city prior to January one, eighteen hundred and ninety-eight;

9. "The sinking fund of The City of New York," being the sinking fund for the redemption of the corporate stock of The City of New York, other than for water purposes, issued since January one, eighteen hundred and ninety-eight;

10. "The water sinking fund of The City of New York," being the sinking fund for the redemption of corporate stock of The City of New York issued for water purposes since January one, eighteen hundred and ninety-eight;

11. The special sinking fund heretofore created for the redemption of corporate stock issued for purposes of rapid transit;

12. Such special sinking funds as may hereafter be created for the redemption of corporate stock issued for purposes of rapid transit;

Sec. 76. "The sinking fund of The City of New York," as the same now exists, shall be continued and shall have for its purposes the payment of the principal of the debt of the city incurred after January one, eighteen hundred and ninety-eight, or which shall hereafter be incurred as to which no provision for payment, otherwise than from taxation is made; but revenue bonds, special revenue bonds, general fund bonds, bonds issued to provide for the supply of water and assessment bonds, shall not be a charge upon the said sinking fund. In determining said debt there shall also be deducted the amounts annually received from the operation of any rapid transit railroad or railroads for the construction of which bonds have been or shall hereafter be issued pursuant to the provisions of the rapid transit act applicable to the city or any municipal corporation or territory embraced therein. For the redemption of such debt there shall be included annually in the budget and paid into the sinking fund of The City of New York as heretofore created and hereby continued, an amount, to be estimated and certified by the comptroller, which, with the accumulations of interest thereon, shall be sufficient to meet and discharge such debt at maturity; and this amount shall not be subject to rejection or reduction by the council.

Sec. 77. Whenever the bonds and stocks which are charges or liens on any sinking fund shall, in respect to any such sinking fund, be wholly discharged, the revenues of such sinking fund shall thereupon and thereafter be paid into the "sinking fund of The City of New York." Whenever such payments shall be made, the comptroller in making the certificate to the board of estimate and apportionment as required by section seventy-six, shall take into account the amount thereof, and the board shall deduct the same from the estimated amount to be included in each year's budget as herein provided.

Sec. 78. The fund known as the "sinking fund of The City of New York for the payment of interest" accruing and to accrue upon the stocks of said city until the same be fully and finally redeemed, shall, after providing for the interest on the bonds and stocks now payable therefrom as provided by law, form a fund which shall be transferred to the "sinking fund of The City of New York for the redemption of the city's debt;" provided, however, that nothing herein contained shall authorize the payment from said fund of any interest which may accrue on bonds issued by the corporation of The City of New York since January first, eighteen hundred and ninety-eight, or which may hereafter be issued by the city. Like funds in any of the municipal or public corporations or parts thereof heretofore made part of the corporation of the City of New York, including the counties of Kings and Richmond, shall likewise be continued; and any surplus that may remain therein after fully satisfying all claims, liens or charges that may, pursuant to law or ordinance, exist against such funds shall, unless otherwise provided by law, be transferred to the "sinking fund of The City of New York."

Sec. 79. 1. Between the city and its creditors, holders of its bonds and stocks, including the bonds or stocks of the municipal or public corporations or parts thereof consolidated to form The City of New York, and of the counties of Kings and Richmond, there shall be and there is hereby declared to be a contract that the funds and revenues of the city, of all other corporations herein mentioned and of said counties of Kings and Richmond, and the funds, pursuant to any law, to be collected from assessments by this chapter pledged to the sinking fund for the redemption of the city debt, shall be accumulated and applied only to the purposes of the said several sinking funds as prescribed by law, until all of said debt redeemable therefrom be fully redeemed and paid as herein provided.

2. No reduction shall be made in any of the rates or charges affecting any item or source of the revenue of any sinking fund or of the general fund, except that places of public worship may be exempted from the payment of any fee for the construction of vaults under the sidewalk or in front thereof. All revenues of the city not by law otherwise specifically appropriated, shall, when received into the city treasury, be credited to the general fund, except such proceeds of policies of insurance as shall be authorized by the board of estimate and apportionment to be applied to repair, replace or reconstruct any public property injured or destroyed and covered by such insurance.

Sec. 80. Nothing in this chapter shall be held to require or authorize the commissioners of the sinking fund to use or apply any of the revenues of the sinking fund for the redemption of the city debt or any of the accumulations in said fund, in such manner as to lessen or impair the security now furnished by said fund for the payment of the bonds and stocks of the corporation known as the mayor, aldermen and commonalty of The City of New York for the payment of which the said fund is now pledged by law; and the said bonds and stocks so secured by law are hereby declared to constitute a preferred charge on said sinking fund until the same shall be fully and finally paid.

Sec. 81. The "consolidated stock" of the mayor, aldermen and commonalty of The City of New York, issued pursuant to the provisions of section one hundred and seventy-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, after full provision for the preferred bonds and stocks of said city, as in the preceding section specified, shall form a charge upon the said "sinking fund for the redemption of the city debt," and any part of the bonded debt of said corporation due and not exchanged for or redeemed from the proceeds of said consolidated stock as provided by law, may be paid from said "sinking fund of The City of New York," provided such payment shall not in any way impair the preferred claims thereon as specified in the preceding section.

Sec. 82. Whenever the revenues or income of any sinking fund will, in the opinion of the board, be less in any year than the amount required to pay the interest upon the bonds and stocks redeemable from said fund and to provide a sum, which with the accumulation of interest thereon shall be sufficient to redeem said bonds and stocks at their maturity, the board of estimate and apportionment shall include the amount of such deficiency in the annual budget for the year next ensuing to be raised by tax on the estates, real and personal, in said city, subject to taxation: and the amount so raised by tax shall, on the first day of November of the year in which the same shall be levied, be paid to the board as commissioners of the sinking fund for account of the sinking fund in which the deficiency exists.

Sec. 83. The board, acting as commissioners of the sinking fund, is authorized and empowered to call in, pay and redeem any of the obligations of the city

as defined in section eighty-four of this act, except revenue bonds, special revenue bonds and assessment bonds, and for this purpose may by resolution receiving at least twelve votes direct the comptroller to issue and sell corporate stock at not less than par. All certificates so redeemed shall be cancelled forthwith.

## CHAPTER VII.

### CORPORATE STOCK, BONDS AND OBLIGATIONS.

Sec. 84. Obligations for the payment of money, other than contracts for work, materials and supplies, hereafter entered into or issued by the city, shall be of the following classes only, namely:

1. Assessment bonds;
2. Revenue bonds;
3. Special revenue bonds;
4. General funds;
5. Corporate stock.

Corporate stock shall be of three classes only, namely:

Class A. Redeemable from the sinking fund of The City of New York;

Class B. Redeemable from the water sinking fund of The City of New York;

Class C. Redeemable from any sinking fund created pursuant to the provisions of the laws of eighteen hundred and ninety-one, and the acts amendatory thereof.

For the redemption and payment of all classes of obligations enumerated in this section, and the interest thereon, the faith and credit of the city shall be and are hereby pledged.

Sec. 85. No obligations of the classes enumerated in section eighty-four shall be issued unless authorized by the board of estimate and apportionment by at least twelve votes. All sums received by the city from the sale of any such obligations, in excess of the par or face value thereof, shall be paid into the general fund for the reduction of taxation.

Sec. 86. The several classes of obligations enumerated in section eighty-four are as follows, respectively:

1. "Assessment bonds"—

a. Obligations issued to provide means necessary to pay all damages awarded by commissioners of estimate and assessment in reports hereafter or heretofore confirmed in proceedings taken to open, widen or extend any street, park or parkway, or to acquire title to lands required for any bridge, tunnel or approach thereto, the expense whereof is to be collected by assessment in whole or in part upon the property benefited, and the commissioners' fees and the costs and expenses of such proceedings, as taxed therein. These bonds shall be known as street and park opening assessment bonds.

b. (1) Obligations issued to provide means necessary to pay all expenses incurred or to be incurred on account of regulating, grading, curbing, flagging and paving streets, constructing sewers and drains, for the right of way required for sewers or drains, the expense of plans and surveys and the fees of commissioners, and on account of all other work ordered to be done by contract by virtue of any resolution of the board of estimate and apportionment or any local board the expense whereof is to be collected by assessment in whole or part upon the property benefited, or on account of any local improvement or other public work heretofore executed or hereafter to be executed under the provisions of any law in all cases in which such expense is to be paid in whole or part by assessment upon the property benefited. These bonds shall be known as street improvement fund bonds.

b. (2) Obligations issued to meet the cost of restoring street pavements broken or damaged by any person or corporation authorized by permit to open the streets as provided in the administrative code. The moneys collected pursuant to the provisions of the administrative code shall be set apart when col-

lected as a trust fund and applied to the redemption of the principal and interest of such bonds.

b. (3) Obligations issued to provide the means necessary to pay the expense of any local improvement, the full expense whereof is not assessed upon the property benefited by such work because of section two hundred and sixty-eight.

c. Obligations issued when the amount in the street and park opening fund or in the street improvement fund shall be insufficient to meet and pay, as they become due and payable, any bonds theretofore issued by the city payable from said funds respectively.

d. Obligations issued to provide such amounts as may be required to meet when necessary deficiencies caused by delay in collecting arrears of assessment, the aggregate amount so issued not to exceed at any time the aggregate amount of arrears then outstanding not deemed collectible.

2. "Revenue bonds"—bonds or obligations issued in anticipation of the collection of taxes and redeemable out of the tax levy for the year in which they are issued, and the amount of which in no year shall exceed the amount of such levy.

3. "Special revenue bonds"—bonds or obligations redeemable out of the proceeds of the tax levy for the year immediately succeeding the year of their issue and for the full payment of which provision shall be made in the budget for the year next following the year of their issue;

4. "General fund bonds"—bonds or obligations the issue of which is authorized by section ninety-eight.

5. "Corporate stock of The City of New York"—all other bonds or obligations which shall be issued only to provide means necessary to pay the cost of

- (1) Permanent improvements;
- (2) Acquisition of real property;
- (3) Acquisition of the rights of persons or corporations in and to franchises as defined in section five of this act;
- (4) Acquisition of lands and easements for rapid transit railroads and the construction and equipment thereof;
- (5) Redemption of corporate stock at maturity; and of assessment bonds authorized to be issued by this chapter;
- (6) Retirement and refunding of the city debt or any part thereof at any time existing;

(7) Personal property of durable character; but corporate stock shall not be issued for the purchase of personal property which is perishable or in the nature of a supply for current use.

Nothing herein contained shall be deemed to prohibit the issue of corporate stock authorized or required to be issued by any statute in force immediately prior to the date when this act takes effect if all such stock shall not theretofore have been issued.

Sec. 87. All obligations of the classes enumerated in section eighty-four shall be free and exempt from all taxation. Such obligations shall be in form as designated by the comptroller and mayor, and shall be signed by the comptroller, sealed with the common seal of the city, and attested by the city clerk.

Sec. 88. The corporate stock of the city shall be in the form of coupon stock or registered stock, and the certificates thereof shall be of such denominations of not less than ten dollars each as the comptroller may determine. It shall, at his option, be conditioned to be paid in gold coin or legal currency of the United States, or in sterling, francs, or marks, at a stipulated rate of exchange, and shall be made redeemable at a period of not less than ten years nor more than fifty years from the date thereof.

Sec. 89. The interest to be paid on the obligations of the city authorized to be issued by this chapter, except interest upon revenue bonds and special revenue bonds, shall not exceed the rate of four per centum per annum on corporate stock, or five per centum per annum on

assessment bonds; and interest on all obligations of the city shall be made payable at times and places to be fixed by the comptroller at the time of their issue.

Sec. 90. All bonds and stock of the city which may hereafter be issued, except such bonds or stocks as may be purchased for investment of any sinking funds, shall be offered at public sale by the comptroller, and proposals therefor shall be invited by public advertisement for at least ten days; but the board of estimate and apportionment may authorize the comptroller to issue revenue bonds or special revenue bonds without public advertisement. No proposals for less than the par value of such bonds or stock shall be received. Every bidder shall, at the time of his proposal, deposit with the comptroller in cash, or by a certified check drawn to the order of the comptroller upon a trust company or a bank incorporated and doing business under the laws of this state, or upon a national bank, a sum to be fixed by the comptroller, not exceeding two and one-half per centum of the par value of the bonds or stock bid for in such proposal. Deposits other than those made by bidders to whom awards of such bonds or stock are made, shall be returned to the bidders within three days after awards of the bonds or stock offered for sale shall have been made. Proposals for all or none of the bonds or stocks offered for sale shall be received only from persons who shall also have bid for all or any part of the bonds or stock. Bidders may be required to accept part of the bonds or stock bid for by them at the prices specified in their bids, if such bids be not made for all or none. All proposals received shall be opened by the comptroller in the presence of at least two other members of the board of estimate and apportionment. Bonds or stock offered for sale shall be awarded by the comptroller to the highest bidders therefor; and if said highest bidders shall fail to pay the amount bid by them for such bonds or stock, less the amount deposited with their proposals, to the comptroller, within five days after service upon them of written notice of such award, the amount of said deposit shall be forfeited to and retained by the said city as liquidated damages, and shall thereafter be paid into the sinking fund of The City of New York for the redemption of the city debt. The comptroller may, with the approval of the board of estimate and apportionment, reject any or all bids received at any sale. If at any time any part of the bonds or stock so offered at public sale shall fail to be sold, the comptroller may sell the same at private sale, for not less than the par value thereof.

Sec. 91. Upon the application of the owner, either in person or by attorney, any obligation of the foregoing classes shall be registered in the finance department, and such obligation shall thereafter be transferable only upon the books of the city, and in accordance with reasonable rules to be prescribed by the comptroller, and the fact of such registry and transfer shall be indorsed thereon by direction of the comptroller. Stocks or bonds which have been or may be issued in coupon form, may be registered in accordance with reasonable rules prescribed by the comptroller; and the interest on all such coupon stock or bonds when so registered shall, as the same becomes due and payable, be paid in like manner as upon registered stock or bonds of the city. Whenever stock or bonds so registered shall have coupons attached, the comptroller may, upon registration, detach such coupons and cause the registration of such stock or bonds to be indorsed thereon, with a reference to this section. Such registration shall not affect the negotiability of the coupons belonging to any coupon bond; but every such coupon shall continue to pass by delivery and shall remain payable to bearer. Any registered bond may be discharged

from registry by transfer in like manner upon the books of the city to bearer, and thereafter transferability by delivery shall be restored. Any registered bond, without coupons, may be transferred in like manner upon the books of the city, upon surrender of the certificate of stock or the bond for cancellation, accompanied by delivery of a written instrument of transfer, in a form approved by the comptroller, duly executed by the registered holder of such certificate of stock or bond, and thereupon a new registered bond or certificate of stock for an equivalent sum shall be issued to the transferee or transferees.

Sec. 92. The comptroller as authorized by the board of estimate and apportionment shall issue for such periods as he may determine, not exceeding ten years:

1. Street and park opening bonds.
2. Street improvement fund bonds.
3. Assessment bonds authorized for other purposes.

The purpose for which these several classes of assessment bonds shall be issued shall be briefly stated upon the face of each bond.

Sec. 93. The fund heretofore established and now existing in the city treasury entitled the "fund for street and park openings" shall be continued and shall consist of

1. Whatever cash balance in said fund may upon January first, nineteen hundred and ten, be on deposit in the city treasury;

2. Whatever sums shall, under the provisions of law in force on December thirty-first, nineteen hundred and nine, be required to be paid into said fund;

3. All moneys received from the sale of assessment bonds known as street and park opening bonds;

4. All moneys hereafter collected by the city for or on account of assessments made and confirmed or hereafter to be made and confirmed for opening any street, park or parkway or acquiring title to land required for any bridge, tunnel or approach thereto;

5. All moneys received from the sale of corporate stock to provide means to pay such proportion, if any, of the damages awarded by commissioners of estimate and assessment in proceedings taken to open any street, park or parkway, or to acquire title to land required for any bridge, tunnel or approach thereto, and all the costs and expenses of such proceedings, as the board of estimate and apportionment shall by resolution direct to be paid by the city.

All damages awarded by the commissioners of estimate and assessment in reports heretofore or hereafter confirmed in proceedings taken to open any street, park or parkway or to acquire title to land required for any bridge, tunnel or approach thereto, all commissioners' fees, and all costs and expenses of such proceedings shall be paid from said fund.

Sec. 94. 1. All street and park opening bonds shall when due be paid from the fund for street and park openings; and in case said fund shall be insufficient for that purpose the comptroller, when there- authorized by the board of estimate and apportionment, shall issue corporate stock for an amount sufficient to pay such street and park opening bonds; or may, for the like purpose and to the extent necessary, issue new street and park opening bonds.

2. When the amount of the damages awarded in any report, together with commissioners' fees and the expenses and costs shall exceed the balance remaining in said fund after deducting all outstanding claims against said balance, the comptroller, when authorized by the board of estimate and apportionment, shall raise by the issue and sale of street and park opening bonds such amounts as shall be necessary to pay such damages, fees, costs and expenses, but not to exceed the amount of assessments remaining uncollected and a lien upon lands assessed for the benefit of street and park open-

ings added to the amount of the assessments that remain to be imposed in proceedings in which awards only have been confirmed: provided, however, that in each and every case in which by virtue of any existing statute or any statute hereafter enacted, or by virtue of any act or resolution heretofore or hereafter adopted by any board or body having jurisdiction pursuant to any statute, the whole or any portion of the awards made in any proceeding and of the fees, costs and expenses thereof, are payable out of the fund for street and park openings and are not to be assessed upon the property benefited, but are to be paid by the city, the board of estimate and apportionment may direct the amount so to be paid by the city to be raised by the issue and sale of corporate stock, the proceeds of sale to be paid into the fund for street and park openings.

Sec. 95. The fund heretofore and now existing in the city treasury and entitled the "street improvement fund" shall be continued and consist of

1. All moneys received from the sale of street improvement fund bonds issued for the purpose of providing means to pay the cost of regulating, grading, curbing, flagging and paving streets, constructing sewers and drains, for the right of way required for sewers and drains, the expense of plans and surveys, and the fees of commissioners, and all other work ordered to be done by the board of estimate and apportionment, or the expense of which work is to be collected by assessment in whole or in part from the property benefited thereby, or issued on account of any local improvement or other public work heretofore executed or which shall hereafter be executed under the provisions of any law in all cases in which such expense is to be paid in whole or in part by assessment upon the property benefited;

2. Cash balances of assessments heretofore collected or to be hereafter collected on account of similar contracts duly entered into by the proper authorities prior to January first, nineteen hundred and ten;

3. Whatever sums shall under the provisions of law in force on December thirty-first, nineteen hundred and nine, be required to be paid into said fund;

4. All moneys, not expressly pledged to any sinking fund, collected by the city for or on account of assessments made and confirmed or hereafter to be made and confirmed against areas of benefit for any purpose described in subdivision one of this section;

5. All moneys received from the sale of corporate stock issued to provide means necessary to pay the portion if any of the expense of such work which the board of estimate and apportionment may by resolution direct to be paid by the city; or issued to pay the expense of any local improvement in whole or in part, because the assessment therefor has been set aside in whole or in part.

All street improvement fund bonds shall be paid from the street improvement fund.

Sec. 96. Special revenue bonds.—The comptroller, as authorized by the board of estimate and apportionment, shall issue special revenue bonds to provide the means necessary to make payments for the following purposes:

1. Expenses necessarily incurred in condemning unsafe buildings;

2. Amounts audited and directed to be paid by the board of estimate and apportionment pursuant to subdivision one of section sixty-six of this act;

3. The reasonable costs, counsel fees and expenses paid or incurred or which shall hereafter be paid or incurred by any head of department, city magistrate or judge of special sessions who shall have been a successful party to any proceeding or trial to remove him from office, or who shall bring any action or proceeding in which his title to office is in any way involved;

4. Such amounts as may be necessary

to pay judgments recovered against the city; provided, however, that when such judgments shall have been recovered for county charges or liabilities of any of the counties included within the city, separate accounts shall be kept thereof, and the amount of all special revenue bonds issued for such purposes shall be chargeable against the counties respectively in the year in which such bonds shall be redeemed;

5. Sums necessary, as determined by the board of estimate and apportionment to meet the expenditures for the prevention of danger from contagious or infectious diseases, in excess of the appropriation made to the health department for any current year for that purpose;

6. Claims, charges, expenses and appropriations which have been or may lawfully be payable by the city and the several counties wholly included within its limits, and for which no other provision for payment has been made; and separate accounts shall be kept of the bonds issued and payments made on account of county charges and expenses, and the comptroller shall certify the amounts thereof to be raised by tax in the respective counties and to be included in the general fund for the reduction of taxation;

7. Deficiency in the cost of operation and maintenance of all the ferries operated by the city remaining after the application to such cost of all net rentals from ferries leased by the city and all revenues of ferries operated by the city.

Sec. 97. Revenue bonds.—The comptroller is authorized to borrow, from time to time, on the credit of the city, in anticipation of its revenues, such sums, not exceeding the estimate of said revenues, as may be necessary to meet the expenditures under the appropriations for each current year, including such amounts as are to be raised by the city for county purposes.

Sec. 98. General fund bonds.—The board shall, in each and every year until the maturity of all bonds and stock issued by the city as constituted prior to January first, eighteen hundred and ninety-eight, and redeemable from "the sinking fund of The City of New York for the redemption of the city debt," set apart out of the revenues and income of said sinking fund, except the income and accumulation thereof derived from assets held by said sinking fund on January first, nineteen hundred and three, and except also the income and accumulation thereof derived from the amount to be thus annually set apart, a sum which, with the accumulation of interest thereon, together with the said assets of said sinking fund and the earnings and accumulations thereof, shall be sufficient to redeem at maturity all said bonds and stock redeemable from said fund. At least five weeks before the annual meeting of the council in each year for the purpose of determining the rate of taxation, the board may certify to the council the amount, as estimated by it, of income from all sources of said sinking fund during the then calendar year, and the amount required by this section to be set apart for such calendar year out of such revenues and income for the redemption of bonds and stock to which said fund is pledged. If in any year the estimated amount of revenues or income of said fund, excepting the income and accumulation thereof derived from the assets held by said fund on January first, nineteen hundred and three, and from the amounts annually set apart for the redemption of bonds and stock as by this section required, shall exceed the amount required to be set apart in such year as in this section provided, the board may at the time of making said certificate to the council, determine to invest the whole or any part of such excess in general fund bonds for account of "the sinking fund of The City of New York for the redemption of the city debt;" but such investment shall not be made in any year until the amount required by this section to be set

apart for such year, as provided herein, shall have been so set apart. The board shall then notify the comptroller of the amount, if any, which it has determined to invest in general fund bonds during the current year; the comptroller upon its order, and upon receipt of the money thus to be invested, shall issue and deliver to the board for account of said fund, general fund bonds of the face value of the money received; and shall forthwith pay into the city treasury the money thus received, which shall be deemed to be a part of the general fund and be used for the reduction of taxation. General fund bonds shall be issued to the board only, except as hereinafter in this section expressly provided, for account of "the sinking fund of The City of New York for the redemption of the city debt." They shall be valid and binding obligations of the city, and be subject to all provisions of law applicable to corporate stock of the city not inconsistent with this section. They shall bear such rate of interest, payable from taxation, not exceeding four per centum per annum, and not less than the rate on sinking fund investments made at the time in other corporate stock of said city, as shall be determined by the board. Said bonds shall be due and payable at such time as shall be determined by said board, but not earlier than the year nineteen hundred and twenty-nine, and shall in all respects, except as in this section otherwise expressly provided, be like other corporate stock and bonds of the city. The rights, powers, duties and obligations of the board of estimate and apportionment as commissioners of the sinking fund in respect of said general fund bonds, shall be the same in all respects, except as in this section expressly provided, as with respect of all other corporate stock of said city in said sinking fund. When all bonds and stock of the former city of New York redeemable from said fund shall have been paid, all general fund bonds therein shall be canceled. If in any year it shall appear to the board the revenues and income of the said fund applicable thereto will be insufficient to provide the sum by this section required to be set apart in said year, the board shall include in the annual budget for the next ensuing year, a sum sufficient, when added to the amount of the estimated revenues and income for that year, to make good the deficiency; and the council shall have no power to reduce or reject any such appropriation. If at any time it shall be necessary, in order to provide for the redemption of said bonds and stock redeemable from said sinking fund, the board may purchase from said sinking fund for account of any other sinking fund in chapter six hereof specified, or may sell at public sale to the highest bidder, such amount of general fund bonds then held by "the sinking fund of the City of New York for the redemption of the city debt" as may be necessary for that purpose. Whenever such general fund bonds are so purchased for other sinking funds of the city, or are so sold at public sale, they shall be a charge upon "the sinking fund of The City of New York," and there shall be raised annually by taxation and paid into "the sinking fund of The City of New York" a sum which, with the accumulation of interest thereon, shall be sufficient to redeem said bonds at maturity.

## CHAPTER VIII.

### THE ADMINISTRATIVE DEPARTMENTS.

#### TITLE 1.

##### GENERAL PROVISIONS.

Section 99. Except as otherwise expressly provided by law, the head of every department may appoint and remove all officers and employees under his control without reference to the tenure of office

of such person appointed or employed.

1. The number of officers and employees in any department, and the salary or compensation of each, shall be such as the board of estimate and apportionment shall prescribe and make provision for in the budget.

2. The head of every department and all officers of counties included in the city may make ratable deductions from the salaries and wages of the officers and employees under their control respectively on account of absence from duty without leave; but no such deduction shall be made in those departments or offices in which a fine or penalty may be imposed and where such fine or penalty shall have been imposed for such absence.

3. No person holding a position in the classified municipal civil service subject to competitive examination shall be removed until he has been allowed an opportunity of making an explanation; and the true grounds of removal shall in every case be forthwith entered upon the records of the department, office, board or commission, and a copy thereof, with a copy of the charges and the defense thereto, if any, shall be filed with the municipal civil service commission.

Sec. 100. 1. The head of each department other than the tax department, the health department, the park department, the board of education and Bellevue and allied hospitals, may appoint and at pleasure remove a deputy who, during his absence or inability to act, shall possess his powers and perform his duties except as herein otherwise provided; during a vacancy in the office of head of the department, the deputy so appointed shall act as head thereof.

2. Subject to provisions therefor in the budget, the head of every such department may also appoint a deputy in each or any borough. No person shall be appointed a deputy in any borough unless at the time of his appointment he shall be and for five years immediately prior thereto shall have been a resident of the borough; removal from the borough shall vacate his office.

3. Subject to the provisions of this act and of the administrative code, a deputy shall perform the duties prescribed by the head of his department.

Sec. 101. Where an officer is authorized by this act or the administrative code to call and examine witnesses, or to make any inquiry, he may compel by subpoena the attendance of witnesses and the production of documents, books, and papers before him with respect to the subject of inquiry, and may administer oaths to witnesses. Any deputy may be designated by the head of his department to take such examination. But this section shall not apply to the trial of members of the police and fire forces under sections one hundred and fifty-three and one hundred and eighty-one of this act.

Sec. 102. All the authority, jurisdiction, rights, powers, duties and obligations vested in or imposed upon any department at the time this act takes effect, are continued, except as in this act or in the administrative code otherwise specifically provided. The head of each department shall prescribe the duties of its officers and employees, in conformity with this act and the administrative code, and may adopt general rules and regulations for the government of the department and the conduct of the public business therein not inconsistent with the provisions of this act, of the administrative code or of the ordinances of the council. All rules and regulations in force in the different departments at the time this act takes effect are continued until altered or amended. But no alterations or amendments hereafter made, and no rules and regulations hereafter adopted, shall take effect until approved by the mayor.

Sec. 103. The board of estimate and apportionment may authorize the establishment of a branch office of any department in any borough. The main office of every department shall be in the borough of Manhattan.

Sec. 104. The police pension fund, the fire department relief fund, the public school teachers' retirement fund, and the health department pension fund, as they are severally constituted or provided for by law at the time this act takes effect, are hereby severally continued and shall be administered as provided in the administrative code.

Sec. 105. Wherever used in any chapter or title of this act, unless the context or subject matter otherwise requires, the words "the board," "the department" or "the commissioner" (with or without the article), shall mean the board, department or commissioner whose duties and powers are prescribed in such chapter or title.

## TITLE 2.

### FINANCE DEPARTMENT.

Sec. 106. The comptroller shall be elected at the general election in the year nineteen hundred and nine and every four years thereafter, and shall hold his office for the term of four years. He shall give a bond to the city in the sum of two hundred and fifty thousand dollars, conditioned upon the faithful discharge of his duties, the sureties thereon to be approved by the mayor. His salary shall be twenty thousand dollars a year.

Sec. 107. A vacancy in the office of comptroller shall be filled by appointment by the remaining members of the board of estimate and apportionment, each casting one vote, the appointee to hold office until the first day of January next succeeding the first annual election after the happening of the vacancy.

Sec. 108. The comptroller shall be the auditor, controller of accounts and chief disbursing officer of the city. Subject to rules and regulations adopted by the board of estimate and apportionment, he shall prescribe the forms of keeping and rendering all city accounts, and the manner in which all creditors, officers and employees of the city shall be paid.

Sec. 109. 1. No claim against the city or any county included therein, payable in the first instance from the city treasury for services rendered, work done or materials or supplies furnished, except (1) claims reduced to judgment; (2) awards, costs, charges and expenses duly taxed or ordered paid in judicial proceedings; (3) claims arising under the provisions of contracts made at public letting; or (4) claims settled and adjusted by the board of estimate and apportionment; shall be paid unless the comptroller shall certify that the charges therefor are just and reasonable; and, except as herein above otherwise provided, all bills and vouchers for any such services, work, materials or supplies, shall be subject to audit by the department of finance.

2. The comptroller shall not dispute the amount of any salary or compensation established by law or by or under the authority of the board of estimate and apportionment, nor shall he question the performance of duty by any appointed officer or employee, unless necessary to prevent fraud or waste.

Sec. 110. In addition to such other bureaus as may be authorized by the board of estimate and apportionment, there shall be in the finance department:

1. A bureau of audit, the head of which shall be known as "chief auditor";

2. A bureau of accounts, the head of which shall be known as "chief book-keeper";

3. A bureau of disbursements, the head of which shall be known as "city paymaster";

4. A bureau of records, the head of which shall be known as "custodian of records."

The duties of these bureaus shall be as authorized in the administrative code.

## TITLE 3.

### THE CITY TREASURY.

Sec. 111. The chamberlain shall be the treasurer of the city and of each of the counties included therein. He shall be

the custodian of all moneys belonging to the city, shall deposit them in such banks or trust companies as shall have been designated pursuant to section sixty-seven of this act, and shall pay all warrants drawn on the treasury by the comptroller. No money shall be paid out of the treasury except upon warrants so drawn. The chamberlain shall give a bond to the city in the sum of three hundred thousand dollars for the faithful discharge of his duties.

Sec. 112. There shall be in the department the following bureaus:

4. A bureau of the city treasury, the head of which shall be known as "chief of the bureau of city treasury";

2. A bureau of revenue, the head of which shall be known as "receiver of taxes and revenues";

3. A bureau of licenses, the head of which shall be known as "chief of the bureau of licenses."

Sec. 113. All the provisions of the code of civil procedure relating to a county treasurer shall apply to the chamberlain as the treasurer of each of the counties included within the city.

Sec. 114. In addition to performing his duties as treasurer of the city and of the counties included therein, the chamberlain shall act as the custodian, agent or collector of such funds as may be designated, and perform such duties as may be prescribed, by any law of the state.

## TITLE 4.

### TAX DEPARTMENT.

Sec. 115. The department shall consist of the board of taxation, the deputy tax commissioners, and other persons employed in the duties of the department. The board of taxation shall consist of a president, who shall be designated in his appointment, and six other persons, who shall be called tax commissioners, one of whom shall be an attorney and counselor admitted to practice in the courts of record of this state, of not less than five years' standing. Not more than five commissioners, including the president, shall belong to the same political party on state and national issues. Three of the commissioners, only two of whom shall belong to the same political party shall be residents of the borough of Manhattan; and each of the other boroughs shall be represented in the board by at least one commissioner resident therein at the time of his appointment.

Sec. 116. The board shall appoint deputy tax commissioners, the number of whom shall be fixed by the board of estimate and apportionment. In appointing deputy tax commissioners the board shall apportion such appointments, as nearly as practicable, among the several boroughs according to the population thereof. No person shall be appointed deputy tax commissioner unless, at the time of his appointment, he be, and for at least one year prior thereto shall have been, an elector in the borough from which he is appointed.

Sec. 117. The tax department shall, in the manner herein and in the administrative code provided:

1. Maintain an office in each borough;

2. Assess all property which is taxable in the city at its full value except as otherwise expressly provided by law;

3. Make all assessments for each year as of the first of January of such year;

4. Make assessment-rolls for each year as herein provided and preserve the same;

5. Make, and complete before the second Monday of January in each year, but subject to corrections and additions, the entry of all assessments, except assessments of special franchises and of shares of stock of banks and banking associations;

6. Make, and complete, before the first day of March of each year, the entry of assessments for shares of stock of banks and banking associations, subject to cor-

rections and additions as in the administrative code provided;

7. Open on the second Monday of January in each year the assessment-rolls for public inspection, examination and correction;

8. Hear applications to reduce or cancel assessments and confirm, reduce or cancel assessments;

9. Transmit to the council the statements prescribed in section one hundred and twenty-six;

10. Prepare from the assessment-rolls a tax roll, and extend taxes, at the tax rate certified by the council, against assessments upon the tax roll for each year, other than assessments of shares of stock of banks and banking associations;

11. Deliver the completed tax roll for each year to the receiver of taxes and revenues on or before the fifteenth day of September of each year.

Sec. 118. The tax department shall have power:

1. To enter upon real property and into buildings and structures thereon at all reasonable times, in order to make such examination as is necessary to ascertain the value for purposes of taxation;

2. To compel the attendance of witnesses upon examinations in respect of the correction, reduction or cancellation of assessments;

3. To administer oaths by a commissioner or other person designated by the board for that purpose.

Sec. 119. The entry of an assessment of real property upon the assessment roll shall contain 1. A description of the property reasonably sufficient for its identification; 2. The name of the owner, if known; 3. a statement of its assessed value. To the assessment of improved land assessed by parcel numbering there shall be added a statement, which shall not be deemed to be a part of the assessment, showing the value of the land, appraised as if unimproved. If an assessment of real property be entered upon the assessment-roll by parcel numbering, an omission of the name of the owner or an error in the statement of his name shall not affect the validity of the assessment. If an assessment of real property be entered upon the assessment-roll in the name of the owner, only a substantial error in the name shall render the assessment invalid. An entry by parcel numbering, or an entry of an identification number of real property thereby indicated or described upon the tax maps, shall be deemed to incorporate into the assessment-roll the entire corresponding indication of location and description shown upon the tax maps by the reference. No assessment of real property shall be deemed to be erroneous or illegal because of any division of title or ownership of the property assessed.

Sec. 120. The entry of an assessment of personal property upon the assessment-roll shall contain (1) the name of the owner; (2) a statement of the amount of the assessment. Names of owners shall be arranged alphabetically. Only a substantial error in the name of the owner shall render an assessment invalid.

Sec. 121. Except as herein or in the administrative code otherwise provided, all matters respecting the form of the assessment-roll and the entry of assessments thereon shall be in the discretion of the tax department.

Sec. 122. The assessment-roll shall be open to public inspection between the second Monday of January and the thirty-first day of March, both inclusive, in each year, and also during the month of July in each year, at such reasonable hours of each day except Sundays and public holidays, and under such reasonable regulations as the department shall determine.

Sec. 123. Application to reduce or cancel any assessment may be made in the manner and within the times prescribed in the administrative code.

Sec. 124. The department may reduce or cancel, or may increase any assessment at any time prior to the first day

of July in the year in which the assessment is made. No assessment shall be increased nor shall any change be made in a name or description, except after notice in writing to the party in interest given prior to the first day of June in said year.

Sec. 125. The department may, prior to the first day of July in any year, add any assessment to the assessment-roll for the year, provided notice thereof be given to the party in interest prior to the first day of June in such year. Assessments of special franchises and shares of stock of banks and banking associations entered in pursuance of law, upon the assessment-roll, after the second Monday of January, shall not be deemed added assessments.

Sec. 126. The department shall on or before the first day of July in each year send to the council a statement certified by the board of the aggregate amount of all assessed valuations, as corrected, of property on the books of the assessment-roll for such year, except the assessed valuations of shares of stock of banks and banking associations, also, with the same exception, the aggregate amount of the assessed valuations of property on the books of the assessment-roll kept in each borough, and of the amount of taxes which will be levied upon stocks of banks and banking associations for said year. The council shall determine the rate of taxation for all purposes in each county within the city for each year, and certify the rates so determined to the tax department on or before the fifteenth day of July of each year. In determining such rates the council shall fix each rate in cents and hundredths of a cent upon each dollar of assessed valuation.

Sec. 127. The department shall, on or before the fifteenth day of September in each year, prepare a tax-roll which shall consist of a clear copy of the assessment-roll as corrected, divided as the assessment-roll is divided. It shall compute the tax upon each assessment upon the tax-roll, except assessments of shares of stock of banks and banking associations, at the rate certified by the council, and enter the proper tax upon the tax-roll opposite each assessment. In entering taxes fractions of a cent shall be rejected. Each book of the tax-roll shall be authenticated by a statement of the year for which it is made and by the written signature of at least one of the commissioners, and be forthwith delivered to the receiver of taxes and revenues. And such authentication and delivery of the tax-roll shall be the warrant for the collection of the taxes, so authenticated. The department shall simultaneously with such delivery notify the comptroller of the amount of taxes in order that he may cause the proper sum to be charged to the receiver for collection.

Sec. 128. The taxable status of all persons and property assessable for taxation in the city shall be fixed for each year on the first day of January of such year.

Sec. 129. All taxes shall be due and payable in the month of October of the year in which said taxes are levied. Each tax upon real property shall, on the first day of October in such year, be a lien upon the real property assessed, and shall continue a lien thereon until paid, and shall be preferred in payment to all other liens. If not paid in the month of October interest shall be payable upon the tax from the first day of October until the date of payment at the rate of seven per centum per annum.

Sec. 130. The department may apportion an assessment, as between separate and divided ownerships in the property to which the assessment relates. Such apportionment shall be in the manner prescribed in the administrative code, and shall be evidenced as therein provided.

Sec. 131. This act and the administrative code shall be deemed public notice of the imposition of all assessments for purposes of taxation, except assessments added to the assessment-roll in any year after the second Monday of January of

such year, and of the times for making all applications for reduction or cancellation of assessments, and of the imposition of all taxes and interest charges, and of the times for payment of taxes and interest in each year; and no other notice need be given either to the public or to any party interested in a tax or an assessment for taxation.

## TITLE 5.

### THE LAW DEPARTMENT.

Section 132. The corporation counsel shall:

1. Be the attorney and counsel for the city, the board of estimate and apportionment, the council, and for every officer, department, bureau, board and commission of the city;

2. Except as otherwise provided by law, appear, in behalf of the city, in and have charge and control of all actions, special proceedings, and other legal proceedings in which the city may be a party, or in any manner interested;

3. Institute actions and proceedings, whenever directed by the board of estimate and apportionment; but this subdivision shall not be construed as limiting or intending to limit the right of the corporation counsel to institute and maintain actions, as provided in section one hundred and thirty-three;

4. Prepare all contracts, deeds, leases, bonds and other legal papers for the city and the several departments and offices thereof, and approve the same as to form before execution. Whenever the board of estimate and apportionment shall have prescribed the standard in any class of supplies or materials, or made any determination with respect to the terms, conditions and specifications of any contracts pursuant to the provisions of section sixty-eight of this act, the corporation counsel shall accompany his approval as to form of any such contract with a certificate that the same conforms to the requirements of the board of estimate and apportionment.

Sec. 133. The corporation counsel shall have the right, and it shall be his duty, to maintain, defend and establish the rights of the city, to sue for moneys or revenue belonging thereto, and to enforce the ordinances of the council and the laws of the state relative to the city.

Sec. 134. The corporation counsel shall not, without the approval of the board of estimate and apportionment, compromise or settle any action or special proceeding brought by or against the city or any officer or department thereof, or offer, suffer, confess or permit judgment therein, if the relief demanded be other than a money judgment, or if the amount of any such compromise, settlement, offer or confession shall exceed the sum of one thousand dollars. Nothing herein contained, however, shall operate to limit or abridge the discretion of the corporation counsel in regard to the proper conduct of the trial of any action or proceeding, or to deprive him of the power or privileges ordinarily exercised in the course of litigation by attorneys and counselors-at-law acting for private clients.

Sec. 135. The corporation counsel may appoint and at pleasure remove a first assistant corporation counsel who, during the absence or inability of the corporation counsel to act, shall possess all his powers and perform all his duties. During a vacancy in the office of corporation counsel, the first assistant shall act as corporation counsel. The corporation counsel may also appoint as many assistant corporation counsel as may be authorized by the board of estimate and apportionment.

Sec. 136. Neither the corporation counsel nor any of his assistants shall appear as attorney or counsel in any action or special proceeding in any court, or before any tribunal except in the discharge of his official duties. The corporation counsel may appear in any action or proceeding, criminal or civil, brought against any

officer or employee in the service of the city or of any county therein, by reason of any act done or omitted in the performance of duty, provided that, in the case of any employee, such appearance shall be requested by the head of the department, office or bureau in which he is employed.

Sec. 137. In addition to such other bureaus as may be established in the law department by authority of the board of estimate and apportionment, there shall be a bureau of street openings, a bureau for the recovery of penalties and a bureau for the collection of arrears of personal taxes, each of which shall be in charge of an assistant designated by the corporation counsel.

Sec. 138. The corporation counsel shall have a branch office in the borough of Brooklyn.

Sec. 139. No officer shall have or employ any attorney or counsel in any action or proceeding to which the city or such officer is a party, unless the judgment or order which may be entered therein may affect the tenure of office, property rights or personal liberty of such officer, in which case he may employ and be represented by attorney or counsel at his own expense.

## TITLE 6.

### POLICE DEPARTMENT.

Section 140. No person shall be appointed police commissioner unless he shall be a citizen of the United States and shall have been a resident of the city for at least two years immediately preceding his appointment. The police commissioner shall be appointed for a term of ten years and may be removed by the mayor whenever in his judgment the public interests shall require; or the governor may remove the commissioner after giving him a copy of the charges against him and an opportunity of being heard in his defense. The reasons for such removal shall be stated in writing, in duplicate; one copy of such statement shall be filed in the office of the secretary of state and the other in the office of the city clerk, and each shall be a public record.

Sec. 141. The commissioner shall appoint and may at pleasure remove four deputy police commissioners, to be known respectively as first, second, third and fourth deputy police commissioners, each of whom shall have the qualifications in respect to citizenship and residence prescribed for the commissioner. The deputy commissioners shall have such powers and duties, other than the power to make appointments and transfers, as the commissioner may assign or delegate to them, provided that at least one of them shall be assigned to duty in the borough of Brooklyn, and shall have his office at the headquarters in said borough. In the absence or disability of the commissioner, the deputy commissioner highest in rank and not absent or disabled, shall possess all the powers and perform all the duties of the commissioner, except the power to make appointments.

Sec. 142. The commissioner shall also appoint and may at pleasure remove a trial deputy commissioner, who shall have the qualifications in respect to citizenship and residence prescribed for the commissioner and shall be an attorney and counselor-at-law, admitted to practice in the courts of this state at least ten years prior to the date of his appointment. The trial deputy commissioner shall perform no duties other than to examine, hear, investigate and try charges made or preferred against members of the police force and render decisions thereon, as hereinafter provided.

Sec. 143. The commissioner shall have cognizance and control of the government and administration of the police department and of the direction, disposition and discipline of the police force. Except as otherwise provided by law, he may make,

adopt, amend, alter and enforce rules, orders and regulations, necessary for the discipline of said force, for the exercise of all powers granted to him, and for the efficient performance of all duties imposed upon him and upon the department and persons therein. He shall prescribe the uniforms, shields, emblems, insignia and weapons to be worn, displayed and used, and shall regulate the wearing, display and use thereof, by the members of the police force.

Sec. 144. The police force as constituted at the time this act takes effect is continued, subject to the provisions hereof and of the administrative code. There shall be a superintendent of police who shall, under the direction of the commissioner, be the chief executive officer of the force and be chargeable with and responsible for the control and discipline thereof and the execution of all rules and regulations of the department. The superintendent shall be selected from the members of the force in the manner prescribed in the administrative code; and in the absence or disability of the superintendent, the commissioner shall designate a member of the force to act temporarily as superintendent, as in said code provided.

Sec. 145. There shall be in the department, in addition to such other bureaus as may be established therein by the board of estimate and apportionment:

A detective bureau, the head of which shall be known as "chief of detectives";

A stolen property bureau, the head of which shall be known as "property clerk."

The main office of the detective bureau shall be at the headquarters of the department, and a branch office thereof shall be maintained at the headquarters in the borough of Brooklyn.

Sec. 146. Subject to the provisions of this act, the administrative code and other laws, the commissioner shall have power:

1. To appoint and remove, and to retire and relieve from duty, the members of the police force. No person shall be appointed to or continue to hold membership in the force who is not a citizen of the United States, or who has ever been convicted of felony or dismissed from the force, or who does not reside within the city, or who shall not have resided within the state at least one year next preceding his appointment; but irrespectively of previous residence without the state, skilled officers of experience may be appointed for detective duty. No person under twenty-five or over thirty years of age shall hereafter be appointed a member of the force other than a police matron; but a person whose name shall have been placed on the civil service eligible list may be appointed, while his name remains thereon, although he may meanwhile have attained the age of thirty years. No person shall receive a permanent appointment in the force without having first served a probationary period of at least three months therein:

2. To assign, and transfer or change the assignments of, members of the force, to duty; such assignments and changes thereof or transfers, except in the case of police surgeons, to be made on the recommendation of the superintendent;

3. To grant leaves of absence to members of the force; and to promote members of said force; such promotions to be made on the basis of seniority, meritorious police service and superior capacity, as shown by competitive examination. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the rating therefor to be fixed by the municipal civil service commission;

4. To appoint and at pleasure remove special patrolmen for purposes authorized by law;

5. To establish mounted patrols; to procure, use and operate, or cause to be operated, rowboats, steamboats, or boats propelled by other power, for police service in the waters in and about the city; and to erect, operate, supply and maintain telegraph and telephone lines to

and between such places in the city as may be necessary for the purposes of the department;

6. To direct, control, restrict and regulate, in the interests of public safety, health and convenience, the movement of pedestrian, animal and vehicular traffic of every kind in streets, parks and public places, and to make regulations in regard thereto;

7. To establish, provide and furnish station houses; to fix the boundaries of precincts; and to establish and maintain headquarters or central stations in any borough; and a headquarters shall be maintained in the borough of Brooklyn;

8. To offer rewards to induce the giving of information leading to the detection, arrest and conviction of persons guilty of homicide, arson, or knowingly receiving stolen goods, and to pay such rewards to the person or persons giving such information, but no such reward shall be offered unless there be an unexpended appropriation therefor;

9. To exercise general powers of supervision and inspection within the city over, and to receive periodical reports from, all licensed or unlicensed pawnbrokers, vendors, junkshop keepers, junk boatmen, cartmen, dealers in second-hand merchandise, intelligence office keepers, immigrant boarding house keepers, runners and auctioneers, and over all places of public amusement or for public exhibitions, and places or persons having excise or other licenses to carry on any business;

10. To grant and issue permits for street parades and processions; for the giving of masked balls or entertainments, and for the carrying of pistols in the city;

11. To make any inquiry necessary to the performance of any duties imposed upon him or the department, and for that purpose to call and examine witnesses. All subpoenas shall be attested in the name of the commissioner. The commissioner, each of his deputies, including the trial deputy, the chief clerk, and the first and second deputy clerks of the department, may administer oaths or affirmations to any person in any matter pertaining to or connected with the department or the performance of its duties, including oaths of office which may be taken or required in the administration of affairs thereof. Members of the force shall have power to administer oaths or affirmations in the cases prescribed in the administrative code.

12. The commissioner shall have the powers and perform the duties with regard to the appointment of police matrons, conferred upon him and required of mayors of cities or the boards of commissioners of police thereof.

Sec. 147. Notwithstanding any other provision of this act or the administrative code, the comptroller shall pay over and advance from time to time to the commissioner any portions of the appropriation made to the department for contingent expenses, not exceeding ten thousand dollars at any one time, for which requisition may be made by the commissioner, provided such requisition be approved by the mayor. The commissioner shall transmit to the department of finance the original vouchers for the payment of all sums of money disbursed by him on account of such contingent expenses; and no greater sum than ten thousand dollars in excess of the amount duly accounted for by said vouchers shall be advanced to the commissioner at any one time.

Sec. 148. The department, the commissioner and the deputy commissioners, the superintendent, and all members of the police force, shall, within the boundaries of the city, enforce all criminal laws and shall vigilantly, at all times of day and night, preserve the public peace; prevent crime; detect and arrest offenders; suppress riots, mobs and insurrections; disperse unlawful or dangerous assemblages and assemblages which obstruct the free passage of streets, parks and public places; protect the rights of per-

sons and property; guard the public health; preserve order at elections and all public meetings and assemblages; remove all nuisances in streets, parks or public places, and arrest all street mendicants and beggars; provide proper police attendance at fires; assist, advise and protect immigrants, strangers and travelers in streets, at steamboat and ship landings and at railroad stations; observe and inspect all places of public amusement, all places of business having exercise or other licenses; suppress all disorderly and unlawful houses and places; repress and restrain all disorderly and unlawful conduct and practices; and, generally, enforce and prevent the violation of all laws and ordinances in force in the city.

Sec. 149. Any member of the force may arrest without warrant any person who shall commit, or threaten or attempt to commit, in the presence of such member or within his view, any breach of the peace or any offense or act prohibited by this charter, the administrative code, any law, or ordinance, or who shall, in the presence or within the view of such member, resist, obstruct or interfere with the lawful enforcement of any law or ordinance or of any official order or regulation made pursuant thereto. Members of the force shall possess in the city and throughout the state all the common law and statutory powers of constables, except for the service of civil process, and any warrant for search or arrest issued by any magistrate within the state may be executed in any part thereof by any member of such force. No person other than a member of the force, or a peace officer, or a United States marshal or deputy, shall serve any criminal process within the city.

Sec. 150. The department shall co-operate with the health, fire and other departments, as prescribed in this act, in the administrative code or by ordinance. The commissioner shall detail members of the force to the service of other departments and to attendance upon courts or in public offices, as prescribed in the administrative code. Unless authorized or required by law, no transfer, detail or assignment to special duty of any member of the force shall hereafter be made or continued, except for police reasons or in the interests of police service.

Sec. 151. No member of the force or person holding office in the department shall be liable to military or jury duty, nor shall any member of the force, while actually on duty, be liable to arrest on civil process or to service of subpoena from civil courts.

Sec. 152. No member of the force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the commissioner. Absence, without leave, of any member for five consecutive days shall be deemed and held to be a resignation, and the member so absent shall, at the expiration of said period, cease to be a member of the force and be dismissed therefrom without notice. The salary or compensation of members of the force shall be subject to all fines, penalties, forfeitures and deductions lawfully imposed for cause.

Sec. 153. 1. Any member of the force who shall be found guilty by the trial deputy commissioner of any failure of duty due either to neglect or inefficiency, violation of rules, neglect or disobedience of orders, absence without leave for less than ten consecutive days, immoral conduct, any conduct injurious to the public peace or welfare or unbecoming an officer, or any breach of discipline, may be punished by reprimand, or by forfeiting and withholding pay for a specified time, or by dismissal from the force; but not more than thirty days' pay or salary shall be forfeited or deducted for any offense, and the rules of practice for police trials hereinafter referred to shall prescribe maximum and minimum penalties for each offense specified in such rules, which penalties may be

graded according to the seriousness of the offense and the previous record of the offender in respect to similar and other offenses.

2. Except as otherwise provided in this act or the administrative code, no member shall be reprimanded, fined or dismissed from the force until written charges shall have been made or preferred against him, nor until such charges have been examined, heard and investigated before the trial deputy commissioner, upon such reasonable notice to the member charged and in such manner of procedure as the rules of practice for trials shall prescribe.

3. The commissioner shall adopt rules governing the examination and investigation of charges against members of the force and the practice and procedure to be followed on the trial of such charges, which rules shall be known as the rules of practice for trials and shall, before they take effect, be approved by the appellate division of the supreme court in the first judicial department. Such rules may, with like approval, be amended by the commissioner.

4. All trials shall be had in the first instance before the trial deputy, who shall, subject to the provisions of this act, the administrative code and the rules of practice for police trials, determine the penalty to be imposed upon a member. No decision of the trial deputy dismissing a member from the force shall be final until approved and ordered to be enforced by the commissioner.

5. The commissioner shall designate a place in every borough for the trial of charges, which shall be tried within the borough in which the accused member was serving at the time the charges were preferred.

6. The commissioner and the superintendent shall have power to suspend any member of the force without pay, pending the trial of charges, but no suspension by the superintendent shall continue more than ten days unless approved by the commissioner. If any member so suspended shall not be convicted by the trial deputy commissioner of the charges preferred, he shall be entitled to full pay from the date of suspension, notwithstanding such charges and suspension.

Sec. 154. No writ of certiorari shall hereafter be issued out of any court, nor shall any proceeding of any character be hereafter entertained by any court, except as herein provided, to review any determination of the trial deputy commissioner or of the commissioner, made after this act takes effect, of or with respect to any charges against a member of the force or the trial of such charges or the punishment of such member who has been found guilty thereof. But where such punishment is dismissal from the force, the order of dismissal made by the police commissioner may be reviewed by the appellate division of the supreme court in the first judicial department in the following manner and not otherwise: The person so dismissed may appeal from such order of dismissal to said appellate division, and upon such appeal said court may review said order on the law and facts, and may either affirm said order, with or without costs, or may reverse said order and reinstate the appellant as a member of the force, and may include in its decision a direction with respect to the pay of the appellant from the time of his dismissal, and may award the appellant the costs of the appeal, including a reasonable allowance for counsel fee. Any costs and counsel fee so awarded to the appellant shall be paid in the same manner as judgments against the city are paid. The decision of said appellate division shall be final. The procedure and practice with reference to such appeals shall be prescribed in the rules of practice for police trials.

Sec. 155. No person shall continue to be a member of the force after attaining the age of sixty-five years, and any member who shall attain such age shall there-

upon be retired and relieved from duty therein. Any member of said force who may hereafter become insane or of unsound mind so as to be unable or unfit to perform full service or duty may be removed from the force by order of the commissioner. Members of the force may also retire on their own application or be retired by order of the commissioner, in the cases prescribed in the administrative code and not otherwise.

## TITLE 7.

### HEALTH DEPARTMENT.

Sec. 156. The health commissioner shall be the executive officer of the department. He shall have the care, management and control of all institutions, property, operations, and employees of the department.

Sec. 157. The powers and duties of the department shall extend over the city, the waters within its jurisdiction and throughout the port of New York; but nothing herein contained shall be construed to limit or affect the powers and duties of the quarantine commissioners or the health officer of the port.

Sec. 158. The department shall have power and it shall be its duty, subject to the provisions of this act and of the administrative code:

1. To enforce the public health law within the city;

2. To abate all nuisances detrimental to the public health or dangerous to human life, by action at law or in equity in the name of the city, or without action as a natural person may do;

3. To enforce and to aid in the enforcement of all laws of the state relative to the preservation of human life, or to the care, promotion or protection of life;

4. To cause the vacation of any building which is unfit for human habitation or dangerous to life or health;

5. To enforce all laws relative to the use or sale of poisonous, unwholesome, deleterious or adulterated drugs, medicines or food;

6. To take all steps necessary to the sanitary supervision and protection of the water supply of the city, and the sources thereof;

7. To use all reasonable means for ascertaining the existence and cause of disease or peril to life or health, and for averting the same;

8. To send promptly all proper information in its possession to the health authorities of the state and of any division thereof who may request the same;

9. To gather such information and preserve such record of facts relating to births, marriages, deaths, disease and health as may be useful in the discharge of its duties, and as may tend to public interest and the promotion of health or the security of life;

10. To co-operate with the health officer of the port and the quarantine commissioners to prevent the spread of disease, and to protect life and promote health;

11. To cause all or part of any cargo, or any matter or thing within the city that may be putrid or otherwise dangerous to the public health to be destroyed or removed;

12. To order and enforce the repairing of buildings, structures and houses, other than tenement houses, where necessary for the public health; regulate and control all public markets, and the stands or stalls in and around the same, so far as relates to the cleanliness, ventilation and drainage thereof, and to the prevention of the sale or offering for sale of improper articles therein.

Sec. 159. Subject to the provisions of this act and of the administrative code, the department may:

1. Grant to masters of vessels, bills of health certifying to the condition of the city in respect of health;

2. Remove or cause to be removed to a proper place designated by it any

person sick with a contagious, pestilential or infectious disease; and designate, provide and pay for the use of places for such purposes;

3. Erect, establish, maintain and furnish, in such places within the city as are now used or may hereafter be designated by the board of estimate and apportionment for such purposes, buildings and hospitals for the care and treatment of persons sick with contagious diseases;

4. Take possession of and occupy for temporary hospitals any buildings in the city during the prevalence of an epidemic, if in the judgment of the board the same be required, and pay a just compensation for property so taken;

5. Cause proper care and attendance to be given to any sick person, when it shall appear to the department that the public health requires such person to receive special medical care and attendance;

6. Make reasonable regulations concerning the publicity of any papers, files, reports, records and proceedings of the department; and, except upon order of the supreme court, it may withhold information concerning any birth, death or marriage;

7. Provide for light, ventilation and sanitary inspection and regulation of lodging-houses, and the premises connected therewith;

8. Order the removal of any vessel from which the board shall deem it probable that any infectious or contagious disease may be brought into the city or communicated to the inhabitants thereof;

9. Add to, revise, alter or amend the sanitary code of the city in force at the time this act takes effect;

10. Require reports and information of such facts, at such times and in such form as it may prescribe, relative to the safety of life and promotion of health, from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement, within the jurisdiction of the city;

11. Forbid, and adopt means to prevent, communication with or access to any person, family, house, street or part of the city infected with any contagious, infectious or pestilential disease; but physicians, nurses or messengers may carry advice, medicines and necessities to the afflicted.

Sec. 160. There shall be in the department, in addition to such other bureaus and offices as may be established therein by the board of estimate and apportionment:

1. A bureau of general administration, the chief officer of which shall be called the secretary;

2. A bureau of sanitation, the chief officer of which shall be called the sanitary superintendent, who, at the time of his appointment, shall have been for at least ten years a practicing physician, and for three years a resident of the city;

3. A bureau of records, the chief officer of which shall be called the registrar of records;

4. A bureau of post mortem examinations, the chief officer of which shall be the chief medical examiner, who shall be a duly qualified practitioner of medicine and surgery, of at least ten years' actual experience in the practice of his profession.

Sec. 161. The sanitary code of the city in force when this act takes effect and all provisions of law then existing fixing penalties for violations of the code are continued in full force and effect, subject to revision, alteration or amendment by the department. No amendment to the sanitary code shall become valid and effectual until a copy thereof duly certified by the secretary of the department shall be filed with the city clerk,

and upon such filing the amendment shall become part of the sanitary code.

Sec. 162. Nothing contained in this chapter or in the sanitary code shall be deemed to limit the storage of fertilizers or the keeping and slaughtering of fowls, cattle and other domestic animals upon premises used for farming in rural sections of the city, or to forbid the ordinary use of country roads in driving such fowls, cattle and other domestic animals.

Sec. 163. The department shall have exclusive charge and control of hospitals for the treatment of contagious, pestilential or infectious disease; but, subject to the approval of the board of estimate and apportionment, may delegate to the department of charities and the board of trustees of Bellevue and allied hospitals the duty of providing for the care and treatment of persons suffering from such of said diseases as may, in its judgment, be cared for and treated by such authorities without danger to the public health. No person, incorporated hospital or municipal authority, other than the health department, shall provide institutional care and treatment for persons suffering from pestilential, infectious or contagious diseases without obtaining a permit therefor from the department, and such permit will be revocable at any time by the commissioner; but nothing herein contained shall affect the jurisdiction of the charities department or of the trustees of Bellevue and allied hospitals over any of the hospitals in their charge at the date this act takes effect, pending the determination of the department whether it will or will not issue such permit; and nothing in this section shall impair the right of any hospital to maintain a room or rooms for the observation, diagnosis and temporary care of a person having, or who is supposed to have, a pestilential, contagious or infectious disease; nor shall anything in this section impair any rights now possessed by any incorporated hospital.

Sec. 164. In the presence of great and imminent peril to the public health by reason of impending pestilence, it shall be the duty of the board, having first taken and filed among its records what it shall regard as sufficient proof to authorize its declaration of such peril, and after appropriate resolution, to take such measures and to do and order, and cause to be done, such acts for the preservation of the public health, in addition to those otherwise authorized by law, and make such expenditures, without reference to any appropriation, as it may in good faith declare the public safety and health to demand, and as the mayor shall in writing approve. But the exercise of this extraordinary power shall also, so far as it involves such excessive expenditures, require the written consent of at least two members of the board, and the approval as aforesaid, of the mayor. And such peril shall not be deemed to exist except when, and for such period of time as, the board and mayor shall declare.

Sec. 165. The department shall have the power to condemn, seize and destroy all adulterated or unwholesome food, drink, provisions or drugs; all foul or infected merchandise or articles of whatever description, and all animals afflicted with disease communicable to man.

Sec. 166. 1. After the thirty-first day of December, nineteen hundred and nine, the office of coroner in and of the city and each borough included therein is abolished.

2. All powers vested in and all duties required of coroners by any provision of the code of civil procedure, shall, upon and after the first day of January, nineteen hundred and ten, devolve upon and be exercised and performed by the county clerks of the counties within the city.

Sec. 167. The department shall have exclusive charge and control of the medical examination of and autopsy upon the body of any person who shall die of violence in the city, or under such circumstances as to afford reasonable ground

for belief that death has been produced by criminal means, but no autopsy shall be performed upon any such body, except as hereinafter provided.

Sec. 168. The chief medical examiner shall have general charge and control of all necessary medical examinations and autopsies as provided in the last preceding section. He shall appoint, with the approval of the president of the board of health, and at pleasure remove, medical examiners in and for the several boroughs of the city, as follows: Manhattan, four; The Bronx, two; Brooklyn, two; Queens, two; Richmond, one; each of whom shall be a duly qualified practitioner of medicine and surgery, of at least ten years' actual experience in the practice of his profession, and an elector of the borough in and for which he is appointed.

Sec. 169. Upon information that there has been found within the city the body of a person who is supposed to have come to his death by violence or under such circumstances as to afford reasonable grounds for belief that his death has been produced by criminal means, the chief medical examiner or a medical examiner in and for the borough where such body has been found or is lying, shall forthwith go to the place where such body lies and take charge of the same; and, if on view thereof and personal inquiry into the cause and manner of death, he deems an examination involving dissection necessary, he shall, upon being authorized thereto in writing by the district attorney of the county in which such body lies, or by a city magistrate or justice of the court of special sessions of the division of the city wherein such body lies, make autopsy thereupon, at such place as may have been designated and provided for such purpose by the board of estimate and apportionment, and shall then and there carefully cause a record to be made of every fact and circumstance tending to show the condition of the body and the cause and manner of death, which record he shall subscribe. If upon such view, personal inquiry or autopsy, the chief medical examiner or a medical examiner is of opinion that the death was caused by violence or by criminal means, he shall forthwith file a duly attested copy of such record in the office of the district attorney of the county and a like copy with a city magistrate holding court in the borough wherein such body lies, and shall certify to the public administrator of the county and the registrar of records the name and residence of the person deceased, if known, or, when the name and residence cannot be ascertained, a description of the person deceased, as fully as may be, for identification, together with the date when, and the cause and manner by and in which he came to his death.

Sec. 170. A city magistrate shall authorize and direct the commissioner to cause an autopsy to be held upon the body of any person who has died in the city whenever it shall appear by the report of the chief medical examiner or a medical examiner of the health department, or other satisfactory information, that the death of such person was caused by violence, or occurred under such circumstances as to afford reasonable grounds to suspect that it was produced by criminal means.

Sec. 171. Upon the presentation of a duly attested copy of the record of a medical examination or autopsy, made by the chief examiner or an examiner of the board of health, or other satisfactory information indicating that the death of a person found or lying within his jurisdiction was caused by violence or by criminal means, a city magistrate shall hold an inquest upon the body of such person, in the manner and form prescribed by title one of part six of the code of criminal procedure, with the same authority and subject to the same obligations and penalties as are by law

vested in and imposed upon coroners of counties.

Sec. 172. The term "lodging-house" shall be construed to mean any house or building, or portion thereof, in which persons are harbored, or received or lodged, for hire for a single night, or for less than a week at one time, or any part of a house or building which is let for any person to sleep in for any term less than a week.

## TITLE 8.

### FIRE DEPARTMENT.

Sec. 173. The department shall have authority to prevent and extinguish fires in the city. Its jurisdiction shall as soon as practicable be extended over all the territory included within the city, subject to terms and conditions with respect to the purchase and acquisition of property, owned by or under the control of volunteer fire departments or forces to be prescribed by the board of estimate and apportionment.

Sec. 174. The commissioner shall have the exclusive management and direction of the department and the care and custody of all the property thereof, and may:

1. Make assignments to duty in the fire force in the manner prescribed in the administrative code;

2. Divide the fire force into appropriate ranks and grades to be designated by appropriate titles, each with such authority or duties with respect to the other ranks and grades as the commissioner may determine;

3. Direct and order any building or buildings which shall be on fire, or any other building which he may deem hazardous and likely to take fire or to convey fire to other buildings, to be pulled down and destroyed;

4. Exercise such authority with respect to the storage and safe-keeping of explosives, the loss of life and precautions against fire, the making and sale of fireworks, explosive compounds, petroleum, coal oils and other substances, as may be conferred upon him by the administrative code and the ordinances of the council;

5. Enter into and examine at any time any building, vessel or place where any combustible material may be, for the purpose of ascertaining any violation of law or ordinance; and the members of the fire department shall, under his direction, have similar powers;

6. Extinguish any fire on any vessel, or in or upon any dock, wharf, pier or other structure within the port of New York, and take necessary precautions to prevent the spread of any such fire to the shipping in said port or to the docks, wharves, piers or other structures bordering upon or adjacent thereto. While engaged in extinguishing any such fire, the department may prohibit any vessel or any person from approaching such fire or the vessel, dock, wharf, pier or other structures in danger therefrom, and may cause all vessels to be removed and kept away from the vicinity.

Sec. 175. The commissioner shall appoint two deputy commissioners, to be known respectively as first and second deputy commissioner. In the event of the commissioner's suspension or removal from office, or death, the first deputy shall possess all the powers and perform all the duties belonging to the office of commissioner until the office be filled by appointment by the mayor. In the event of the commissioner's absence from the city or inability to act, the deputy commissioner highest in rank and not absent or unable to act shall possess all the powers and perform all the duties of the commissioner except the powers of promotion, appointment or transfer. The second deputy commissioner shall be an attorney and counselor-at-law admitted to practice in the courts of this state at least ten years prior to the date of ap-

pointment. He shall examine, hear, investigate and try charges made or preferred against members of the fire force and render decisions thereon as hereinafter provided.

Sec. 176. 1. The members of the department, other than the commissioner and deputy commissioners, in office or employed at the date when this act takes effect are hereby continued in the service of the city as members of the department subject to the authority conferred upon the commissioner by this act and the administrative code.

2. The term "fire force," wherever used in this chapter, shall include all persons under the control of the commissioner charged with the duty of preventing and extinguishing fires or investigating their origin, and telegraph operators.

3. The uniformed force of the department as constituted on the thirty-first day of December, nineteen hundred and nine, is continued, subject to the power of the commissioner to make changes therein and establish ranks or grades which shall not impair the right of any member of the fire force to any pension or relief fund of the department.

Sec. 177. There shall be in the department, in addition to such other bureaus as may be established therein by authority of the board of estimate and apportionment:

1. A fire bureau, which shall be charged with the prevention and extinguishment of fires and the necessary and incidental protection of property: the head of the bureau shall be known as "chief of fire department;"

2. A bureau of combustibles, which shall be charged with the execution of all laws relating to the storage, sale and use of combustible materials; the head of the bureau shall be known as "inspector of combustibles;"

3. A fire marshal's bureau, which shall be charged with the investigation of the origin and cause of fires. The principal officers of the bureau shall be known as "fire marshals."

Sec. 178. No person shall be appointed to or hold any position in the department who is not a citizen of the United States and who shall not have resided within the state for at least one year immediately preceding his appointment, nor shall any person be appointed who has ever been convicted of felony; who is unable intelligently to read and write the English language; or who is not between twenty-one and thirty years of age, except that a person whose name shall have been placed on the eligible list may be appointed while his name remains thereon although he may meanwhile have attained the age of thirty years. Members of the fire force shall reside within the city and shall have been residents thereof for at least one year prior to their appointment. No permanent appointment shall be made in the department unless the appointee shall have served such probationary period as may be lawfully prescribed. Service during probation, if succeeded by permanent appointment, shall be deemed service in the determination of eligibility for advancement, promotion, retirement or pension.

Sec. 179. No person holding a position in the department shall be liable to military or jury duty, or to arrest on civil process, or be served with subpoenas from civil courts while actually on duty.

Sec. 180. 1. No member of the fire force, under penalty of forfeiting the salary or pay which may be due to him, shall withdraw or resign except by permission of the commissioner. Absence without leave of any member for five consecutive days shall be deemed and held to be a resignation and the member so absent shall at the expiration of said period cease to be a member of the force.

2. The salary or compensation of members of the force shall be subject to all penalties, fines, forfeitures and deductions lawfully imposed for cause.

Sec. 181. 1. Any member of the fire force who shall be found guilty by the second deputy commissioner of any failure of duty due either to neg-

lect or inefficiency, violation of rules, neglect or disobedience of orders, absence without leave for less than ten consecutive days, immoral conduct, any conduct injurious to the public peace or welfare or unbecoming an officer, or any breach of discipline, may be punished by reprimand or by forfeiting and withholding pay for a specified time or by dismissal from the force; but no more than thirty days' pay shall be forfeited or deducted for any offense, and the rules of practice for fire force trials hereinafter referred to shall prescribe maximum and minimum penalties for each offense specified in such rules, which penalties may be graded according to the seriousness of the offense and the previous record of the offender in respect to similar and other offenses.

2. Except as otherwise provided in this act or the administrative code, no member shall be reprimanded, fined or dismissed from the force until written charges shall have been made or preferred against him nor until such charges shall have been examined, heard and investigated before the second deputy commissioner upon such reasonable notice to the member charged and in such manner of procedure as the rules of practice for fire force trials shall prescribe.

3. The commissioner shall adopt rules governing the examination and investigation of charges against members of the force and the practice and procedure to be followed on the trial of such charges before the second deputy commissioner, which rules shall be known as the rules of practice for fire force trials and shall before they take effect be approved by the appellate division of the supreme court in the first judicial department. Said rules may with like approval be amended by the commissioner.

4. When the second deputy commissioner shall find a member guilty of charges preferred, he shall, subject to the provisions of this act, the administrative code and the rules of practice for fire force trials, determine the penalty to be imposed upon a member, but no decision of the second deputy commissioner dismissing a member from the force shall be final until approved and ordered to be enforced by the commissioner.

5. The commissioner shall designate a place in every borough for the trial of charges, which shall be tried within the borough in which the accused member was serving at the time the charges were preferred.

6. The commissioner and chief of fire department shall have power to suspend any member of the fire force without pay pending the trial of charges, but no suspension by the chief of department shall continue more than three days unless approved by the commissioner. If any member so suspended shall not be convicted by the second deputy commissioner of the charges preferred, he shall be entitled to full pay from the date of suspension notwithstanding such charges and suspension.

Sec. 182. No writ of certiorari shall hereafter be issued out of any court, nor shall any proceeding of any character be hereafter entertained by any court except as herein provided, to review any determination of the second deputy commissioner or of the commissioner made after this act takes effect, of or with respect to any charges against a member of the fire force or the trial of such charges or the punishment of such member who has been found guilty thereof. But where such punishment is dismissal from the force, the order of dismissal made by the fire commissioner may be reviewed by the appellate division of the supreme court in the first judicial department in the following manner and not otherwise: The person so dismissed may appeal from such order of dismissal to said appellate division and upon such appeal said court may review said order on the law and facts, and may either affirm said order, with or without costs, or may reverse said order and reinstate the appellant as a member of the force,

and may include in its decision a direction with respect to the pay of the appellant from the time of his dismissal, and may in its discretion award the appellant the costs of the appeal, including a reasonable allowance for counsel fee. Any costs and counsel fees so awarded to the appellant shall be paid in the same manner as judgments against the city are paid. The decision of said appellate division shall be final. The procedure and practice with reference to such appeals shall be prescribed in the rules of practice for fire force trials.

Sec. 183. No person shall continue to be a member of the fire force after attaining the age of sixty-five years, and any member who shall attain such age shall thereupon be retired and relieved from duty therein. Members of the fire force may also retire on their own application or be retired by order of the commissioner in the cases prescribed in the administrative code and not otherwise.

## TITLE 9.

### DEPARTMENT OF EDUCATION.

Section 184. The board of education of the City of New York created by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, and acts amendatory thereof, is hereby abolished, its abolition to take effect as soon as the department of education, as herein constituted, shall have been organized in conformity with this act. The terms of office and the official functions of members of the board shall cease on February first, nineteen hundred and ten; and all actions and proceedings by or against said board then pending shall be continued by or against the city, which shall be substituted therein for said board.

Sec. 185. Except as in this act or in the administrative code otherwise provided, all rights, powers, authority, trusts, duties and obligations vested in or imposed upon the board of education of The City of New York at the time this act takes effect, are hereby vested in and imposed upon the board as in this act constituted; but the said board shall not possess the powers or privileges of a corporation. All the schools and the school system of the city shall be under its control. Wherever used in this title, the word "schools" shall mean public schools, and the words "school system" the public school system.

Sec. 186. The schools shall, under such regulations as the board may prescribe, not in conflict with the consolidated school law, be free to all persons over four and under twenty-one years of age residing in the city; but no child under six years of age shall be received in said schools except in kindergarten classes.

Sec. 187. All property, real and personal, heretofore acquired by the city and now used by it for school or educational purposes, and all property, real and personal, hereafter acquired by it for such purposes, shall, in the manner provided in this title, be under the care and control of the department for the purposes of public education and recreation and for other public and for social uses.

Sec. 188. The board shall consist of fifteen members, to be known as commissioners of education, one of whom, to be designated by the mayor, shall be president; they shall be appointed by the mayor and may be removed at his pleasure. They shall be appointed from the several boroughs in such manner that there shall be five for the borough of Manhattan; four for the borough of Brooklyn; two for the borough of The Bronx, Queens and Richmond respectively. During the month of January, nineteen hundred and ten, the mayor shall appoint fifteen commissioners whose terms of office shall begin on the first day of February of that year. The board shall be divided by the mayor into three classes, each to consist of five commissioners. The term of office of the com-

missioners of the first class shall end at the expiration of two years from February first, nineteen hundred and ten; of the second class, at the expiration of four years from said date; and of the third class, at the expiration of six years from said date. In the month of January, nineteen hundred and twelve, and every two years thereafter, the mayor shall appoint five commissioners to serve for the term of six years, beginning on the first of February following.

Sec. 189. Every vacancy in the office of commissioner shall be filled by appointment by the mayor for the unexpired term, subject to the provisions of this act as to residence of commissioners. Removal of a commissioner from the borough from which he was appointed shall vacate his office. Every commissioner shall serve without pay.

Sec. 190. The board shall have power to appoint (1) the following administrative officers: A secretary of the department; a chief clerk; an auditor; a director of school buildings, who shall be an architect of experience and good standing; a supervisor of supplies; a supervisor of janitors; and such employees as may be necessary for the discharge of the administrative duties of the department, and as shall be authorized by the board of estimate and apportionment; and

(2) The following officers constituting the supervising staff: The city superintendent of schools, associate superintendents of schools, district superintendents of schools, directors of special branches, assistant directors of special branches, examiners, a supervisor of lectures, an assistant supervisor of lectures, and a superintendent of libraries. No one shall be eligible to appointment to a position upon the supervising staff unless he shall possess the qualifications for such position prescribed in the administrative code. With the approval of the board of estimate and apportionment the board may appoint employees to assist the supervising staff or, by its by-laws, confer such power of appointment upon members of said staff.

Sec. 191. Every member of the administrative and of the supervising staff may be removed for cause by vote of at least two-thirds of the commissioners, and may be suspended by the board or its president, pending the trial of charges.

Sec. 192. The department shall have power subject to the provisions of this act and the administrative code:

1. To establish and conduct elementary schools, kindergartens, manual training schools, trade schools, truant schools, evening schools, vacation schools, high schools, training schools or classes for teachers, and such other kinds of schools as may be authorized by the administrative code;

2. To discontinue or consolidate schools;

3. To change the grades of schools and of classes in any school in the system, and to adopt and modify courses of study for all classes;

4. To construct, repair, alter and maintain school buildings;

5. To maintain free lectures and courses of instruction for the people;

6. To provide special day or evening classes to instruct in the English language persons who cannot use that language intelligently, and whose vocations prevent their attendance at the other schools;

7. To establish and maintain playgrounds (in connection with the schools) and school farms;

8. Upon the written recommendation of the board of superintendents, to approve text books, apparatus, and other scholastic supplies for use in the schools; but no book of which any member of the board or any officer or employee is the author shall be used in the public schools except with the approval of the board of education;

9. To recommend to the board of estimate and apportionment the renting of property necessary for school accommodations;

10. To enact by-laws, rules and regulations, not inconsistent with law, for the proper execution of all powers and duties, and transaction of all business of the department, the board, its members and committees, and of the several local school boards; regulating and defining the respective duties of all officers and employees in the administrative, the supervising, and the teaching staff; regulating the manner of making disbursements from any funds apportioned to any borough for school purposes; and providing for the promotion of the welfare and best interests of the schools and the school system. Until such by-laws, rules, and regulations shall have been enacted, the by-laws, rules, and regulations of the board in force on the first day of January, nineteen hundred and ten shall, so far as applicable and not inconsistent with the provisions of law, continue in force and effect as the by-laws, rules and regulations of the department.

Sec. 193. The city superintendent and the associate city superintendent shall constitute the board of superintendents. The city superintendent and the examiners shall constitute a board of examiners, which shall examine all applicants for licenses to be issued by it and shall issue to such as pass the required tests of character, scholarship and general fitness the licenses which they are found entitled to receive.

Sec. 194. The term "members of the teaching staff" shall include all principals, heads of departments, teachers, assistants, inspectors; and all members of the teaching staff shall be appointed by the board from the eligible lists prescribed in the administrative code.

Sec. 195. Appointments to and promotions in the teaching staff, except as otherwise provided by law, shall be made according to merit and fitness, to be ascertained so far as practicable by examination which, so far as practicable, shall be competitive. No member of the teaching staff shall be selected, appointed, promoted or reinstated except in accordance with the provisions of this act. The tenure of all members of the teaching staff except probationers shall continue during good behavior and competency. Reassignment of members of the teaching staff from a higher to a lower grade shall be made only for cause after hearing as provided by law. Members of the teaching staff may be removed for cause after trial according to the provisions of the administrative code and the rules and regulations of the board. The name of any member whose position is abolished shall forthwith be placed upon the preferred eligible list.

Sec. 196. The department shall, between the first day of August and the thirtieth day of September in each year, make and transmit to the state superintendent of public instruction a report in writing of the state school year ending on the next preceding thirty-first day of July, the report to be in such form and to state such facts as the state superintendents and the consolidated school law shall require.

Sec. 197. There shall be a local school board in and for each council district, to consist of five members, at least two of whom shall be women. The board shall appoint the local school boards in the manner, for the term, and with the functions, powers and duties, prescribed in the administrative code. Whenever and as often as there shall be an alteration of council districts, the local school board districts shall change to conform with council districts.

Sec. 198. No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect shall be taught, inculcated or practiced, or in which any book or books containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect shall be used, or which shall teach the doctrines or tenets of any other religious sect.

which shall refuse to permit the investigations and examinations provided for by law. But nothing herein contained shall authorize the board to exclude the Holy Scriptures, without note or comment, or any selection therefrom, from any of the schools; but it shall not be competent for the board to decide what version, if any, of the Scriptures, without note or comment, shall be used in any school; provided that nothing herein contained shall be so construed as to violate the rights of conscience secured by the constitution of this State and of the United States.

Sec. 199. The College of The City of New York shall continue to be a body corporate and as such shall have the powers and privileges of a college, pursuant to the educational law and be subject to the provisions of law relative to colleges and to the visitation of regents of the university, in like manner as the other colleges of the state.

Sec. 200. All acts of the legislature in force on March thirtieth, eighteen hundred and sixty-six, in regard to the free academy, and to its control, management, support and affairs, not since modified or repealed and not inconsistent with the provisions of this act, and all laws in force at the time this act takes effect relative to the College of The City of New York, not inconsistent with this act, are hereby declared to be applicable to said college.

Sec. 201. The Normal College of The City of New York is hereby declared to be a separate and distinct organization and body corporate, and as such shall have the powers and privileges of a college, pursuant to the educational law and be subject to the provisions of the statutes relative to colleges and to the visitation of the regents of the university, in like manner as the other colleges of the state.

## TITLE 10.

### DEPARTMENT OF DOCKS AND FERRIES.

Section 202. The commissioner shall have charge and control:

1. Of all water-front property which now or may hereafter be owned or possessed by the city; and of regulating, developing and improving the same;
2. Of cleaning, repairing, building, rebuilding, maintaining, altering, strengthening and protecting said water-front property and of dredging and deepening in and about the same;
3. Of fixing the lines of bulkheads and pierheads in accordance with the lines now or hereafter established by law;
4. Of making surveys, soundings and other examinations of all water-front property within the city;
5. Of fixing the distance between piers and of prescribing the method and character of construction of all wharf property within the city;
6. Of regulating all water-front property within the city not owned or possessed by the city;
7. Of completing the plans for the water-front heretofore adopted by the sinking fund commissioners and filed pursuant to law; and of altering and amending said plans;
8. Of regulating, maintaining, opening, widening, constructing or closing marginal wharves in accordance with plans adopted or altered pursuant to law;
9. Of all ferries and ferry property belonging to the city;
10. Of acquiring water-front and ferry property or any interest therein for the city.

Sec. 203. The commissioner shall, as provided in the administrative code, set apart suitable and sufficient water-front and wharf property for:

1. Boats navigating the canals of the state;
2. Boats not connected with any established steamship or railroad line leasing wharf property from the city;

3. Markets;
4. Floating baths and recreation piers;
5. The departments of the city;
6. General wharfage purposes;
7. And such other uses as the board of estimate and apportionment may designate.

Sec. 204. The commissioner shall execute in the name of the city such leases of ferries and water-front property as may be approved by the board of estimate and apportionment as sinking fund commissioners. Said leases, except ferry leases, shall be for terms not exceeding ten years and may contain covenants for one or more renewals not exceeding ten years at readjusted rents; but such term and renewals shall not in the aggregate exceed fifty years. Leases of ferries, including such water-front property as may be required for ferries, shall be for a term not to exceed twenty-five years and one renewal not to exceed ten years.

Sec. 205. The commissioner shall maintain and operate such ferries as the board of estimate and apportionment may authorize.

Sec. 206. The functions and powers conferred in this title upon the dock commissioner with respect to the building, rebuilding and extension of permanent bulkheads, wharves, docks, piers, slips and basins owned by the city, the alteration and amendment of the plans adopted by the sinking fund commissioners, the establishment of new ferries and acquisition of water-front property or any interest therein, the prescription of character of service and boats, speed, frequency of trips, and rates of fare, freight and commutation, in ferry leases, and designation of wharf property of the city for general wharfage purposes and for the permanent and exclusive use of the fire department, shall be exercised only with the approval of the board of estimate and apportionment as sinking fund commissioners.

Sec. 207. Wherever used in this title:

1. "Bulkhead line" means the line beyond which it is unlawful to fill in with solid material in the waters of the port of New York, except in the construction of piers;
2. "Marginal wharf" means the area extending inshore from the bulkhead line shown on any plan for the improvement of the water-front adopted pursuant to law.
  - (a) Designated as "marginal street, wharf or place;" or,
  - (b) Authorized by law to be used for the deposit or transfer of goods and merchandise upon, over or under the same;
3. "Permanent bulkhead, wharf," or other structure, means a bulkhead, wharf, or a structure on a marginal wharf, intended to continue for an indefinite time, as opposed to a temporary bulkhead, wharf or other structure to remain only during the interval between the authorization of a marginal wharf, or the widening thereof, and the commencement of the construction of such marginal wharf or the widening thereof.

## TITLE 11.

### PARK DEPARTMENT.

Section 208. The park board shall consist of three members to be known as the park commissioner for the boroughs of Manhattan and Richmond; the park commissioner for the boroughs of Brooklyn and Queens, and the park commissioner for the borough of The Bronx. Each commissioner shall when appointed be a resident of the borough, or one of the boroughs, for which he is appointed. Subject to the provisions of this act, the administrative code and the general rules and regulations of the board, each member thereof shall have independent administrative jurisdiction in the borough or boroughs for which he is appointed.

Sec. 209. The board shall have general charge and control of all public parks and parkways and of all streets connect-

ing parks and parkways which shall be placed under its jurisdiction by resolution of the board of estimate and apportionment.

Sec. 210. Subject to the provisions of this act and the administrative code, the board shall:

1. Establish and enforce rules and regulations for the government and protection of all public parks and parkways and of all streets and property of every kind in the charge or under the control of the department, which rules and regulations shall be uniform as far as practicable, in all the boroughs;
2. Appoint and prescribe the duties of a secretary and such subordinate officers in the central office of the department, as may be authorized by the board of estimate and apportionment;
3. Appoint a competent landscape architect whose assent shall be requisite to all plans or propositions respecting the conformation, alteration or ornamentation of the parks or parkways.

Sec. 211. Real and personal property granted, devised, bequeathed or conveyed to the city for the purposes of the improvement or ornamentation of parks or parkways, or for the establishment or maintenance, within the limits of any park, of museums, zoological, botanical or other gardens, collections of natural history, observatories or works of art, shall be managed, directed and controlled by the commissioner for the borough or boroughs in which the same is situated, upon such terms and conditions as may have been prescribed by the grantors or donors thereof and accepted by the city.

Sec. 212. From and after the time when this act takes effect, all control and jurisdiction of the park board, and of the park commissioner for the boroughs of Manhattan and Richmond, of the plans, work or construction respecting the improvement of the Harlem river, shall cease; provided that such board and commissioner shall continue to have control and jurisdiction of so much of the water-front of the borough of Manhattan, on the Harlem river, as is above the low-water mark and extends along the easterly and northerly sides of the park known as the driveway, authorized by chapter one hundred and two of the laws of eighteen hundred and ninety-three and acts amending the same.

Sec. 213. Each commissioner shall:

1. Control all public parks and parkways which are situated in the borough or boroughs over which he has jurisdiction, and of the streets immediately adjoining the same; but such jurisdiction shall not extend to or include the buildings which are now or may hereafter be erected in such parks, squares or public places for governmental purposes other than those of the department;
2. Maintain the beauty and utility of all parks and parkways under his jurisdiction, and institute and execute all measures for the improvement thereof for ornamental purposes and for the beneficial uses of the people;
3. Authorize and regulate the projections on and determine the line or curb and the surface construction of all streets lying within any park under his jurisdiction, and of all other streets or parts of streets that may be placed under his jurisdiction pursuant to section two hundred and nine;
4. Plant trees and construct, erect and establish seats, drinking fountains, statues and works of art, when he may deem it appropriate so to do, on any part of the streets within such environments;
5. Determine when and where lamps or lighting appliances shall be placed and lighted in the parks, parkways and streets within his jurisdiction;
6. Permit, subject to the approval of the landscape architect, on the application in writing of the fire commissioner, a building for fire apparatus to be placed in any of the parks under his jurisdiction, provided the building be so located and constructed as, in his judgment, not to

disfigure or encumber the said park, or interfere with the purposes of public use and recreation;

7. Maintain and appoint such superintendents, engineers, clerks, mechanics, laborers and other employees as may be authorized by the board of estimate and apportionment;

8. Control and dispose such members of the police force as may be assigned for duty in the parks, parkways or streets under his jurisdiction;

9. Perform all contracts hereafter entered into by the board of estimate and apportionment for the use of the parks for purposes of art or education.

The office of the commissioner for the boroughs of Manhattan and Richmond shall be maintained in the borough of Manhattan; that of the commissioner for the boroughs of Brooklyn and Queens, in the borough of Brooklyn; and that of the commissioner for the borough of The Bronx, in that borough.

Sec. 214. In accordance with the provisions of the administrative code: 1. The commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to continue the contracts with the Metropolitan Museum of Art; the American Museum of Natural History; the New York Public Library, Astor, Lenox and Tilden foundations, and with the New York Zoological Society for the maintenance of the Aquarium in Battery park;

2. The commissioner for the boroughs of Brooklyn and Queens is hereby authorized and directed to continue the contract and lease with the Brooklyn Institute of Arts and Sciences;

3. The commissioner for the borough of The Bronx is hereby authorized and directed to continue the contracts with the board of managers of the New York Botanical Garden and the board of managers of the New York Zoological Society.

## TITLE 12.

### DEPARTMENT OF WATER SUPPLY.

Section 215. The commissioner shall have the care, management and control:

1. Of all structures and property connected with the supply and distribution of water for public use, including fire and drinking hydrants and water meters, except structures and property owned by private corporations;

2. Of maintaining the quality of the water supply and of the investigation for and construction of all work necessary to deliver the proper and required quantity of water with ample reserve for contingencies and future demands;

3. Of making such regulations concerning the use of water as may be authorized by the administrative code or the ordinances of the council. He shall, subject to the approval of the board of estimate and apportionment, fix a uniform scale of rents and charges for water supplied by the city.

Sec. 216. The commissioner shall have power:

1. To examine into the sources of water supply of any private company supplying the city or any portion thereof or its inhabitants with water, to see that the same is wholesome and the supply adequate, and to establish such rules and regulations in respect thereto as are reasonable and necessary for the safety, convenience and welfare of the public and consumers of water;

2. To exercise superintendence, regulation and control in respect of the supply of water by any such private company, including rates and charges to be made therefor, except that such rates and charges shall not, without the consent of the company, be reduced by the commissioner beyond what is just and reasonable: in case of a controversy, the question of what is just and reasonable shall be finally determined as a judicial question on its merits by a court of competent jurisdiction;

3. To contract with any municipal cor-

poration or board thereof, for a supply of wholesome water for any of the boroughs or any part thereof, from the water works or water belonging to such municipal corporation or under the charge and control of such board, and to procure, purchase and lay, provide and make ready for use mains, pipes and other means and appliances, and erect hydrants necessary and sufficient to distribute and supply the water procured under any such contract;

4. To agree with any owner of lands in any borough for an irrevocable license to enter upon, lay, repair, keep in order and maintain mains, pipes, conduits and hydrants in, through and upon said lands;

5. To use the ground or soil under any street, highway or road within the state for the purpose of introducing water into the city, on condition that he shall cause the surface of said street, highway or road to be restored to its original state and repair all damage thereto;

6. To enter upon any real estate or water on or contiguous to the line, course, site or track of any pond, lake, stream, reservoir, dam, aqueduct, culverts, sluices, canals, bridges, tunnels, pumping works, blow-offs, shafts and other appurtenances, for the purpose of making surveys required by the provisions of this act or of the administrative code; and all engineers, surveyors and other employes of the department of water supply shall have the same right of entry for the same purposes when acting under instructions of the commissioner;

7. To prescribe a penalty, not exceeding the sum of five dollars for each offense, for permitting water to be wasted and for any violation of rules prescribed by him for the prevention of the waste of water, such fines to be added to the water rents and charges. No contract or agreement for any of the purposes specified in subdivisions three and four shall be made unless the proposed contract or license, in the exact terms in which it is to be executed, shall first have been submitted to and approved by the board of estimate and apportionment.

Sec. 217. The commissioner may when duly authorized enter into such contracts as are prescribed by subdivision fifteen of section sixty-four of this act.

Sec. 218. The commissioner shall:

1. Preserve all lakes, streams and other waters from which a water supply is drawn, and the banks thereof, from injury or nuisance, and take such measures as may be necessary to preserve and increase the quantity of water and to keep it pure, wholesome and free from contamination and pollution;

2. Preserve, repair and have control of the dams, gates, aqueducts and bridges, water towers, reservoirs, mains, pipes, pipeyards and property of every description belonging to the water works;

3. Construct such new works and purchases and lay down such mains and pipes as may be authorized by the board of estimate and apportionment.

Sec. 219. The department shall be responsible for the supply of water and the good order and security of all the water works and for the exactness and durability of the structures which may be erected; for the daily work to be performed; for the sufficiency of the supply in the pipeyards to meet every casualty; and for the fidelity, care and attention of all persons employed by the department in watching the works and in construction and repairs.

Sec. 220. Any lake or reservoir constructed at the expense of the city or of any of the municipal and public operations and parts thereof heretofore united and consolidated to form The City of New York, and all lakes and reservoirs hereafter constructed at the expense of the city, shall be subject to such sanitary regulations as the state board of health may prescribe.

Sec. 221. Nothing contained in this act shall be deemed or held to limit or in-

any manner affect the powers and jurisdiction of the state water supply commission or the provisions of chapter seven hundred and twenty-three of the laws of nineteen hundred and five and the acts amendatory thereof.

Sec. 222. The office of aqueduct commissioner created by chapter four hundred and ninety of the laws of eighteen hundred and eighty-three and the acts amendatory thereof, is hereby abolished, and all the rights, powers, authority, jurisdiction, duties and obligations heretofore by law vested in or imposed upon the aqueduct commissioners are hereby vested in and imposed upon the commissioner, subject to the provisions of this act and of the administrative code. All papers, documents, records and property in the possession or under the control of the aqueduct commissioners shall forthwith be delivered to and remain in the custody and under the control of the commissioner.

Sec. 223. All the powers and duties heretofore vested in the commissioner of water supply, gas and electricity with respect to the supply of water are hereby continued in the water commissioner, except as modified in this act or the administrative code. Nothing contained in this act shall affect any of the provisions of chapter seven hundred and twenty-four of the laws of nineteen hundred and five and the acts amendatory thereof, or deprive the board of water supply of The City of New York of any of the jurisdiction and powers conferred thereby.

## TITLE 13.

### DEPARTMENT OF STREET CONTROL

Sec. 224. The commissioner shall have charge and control of

1. Sweeping and cleaning the streets, removing or otherwise disposing, as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage, dead animals, offal, light refuse and rubbish; and of removing snow and ice from the streets;

2. Regulating, grading, curbing, flagging and guttering streets and laying crosswalks;

3. Constructing, paving, repaving, resurfacing and repairing all streets and relaying all pavements removed for any cause;

4. Laying or relaying surface railroad tracks in any street, the form of rail used, character of foundation and method of construction; and the restoration of the pavement or surface after such work;

5. Filling sunken lots, fencing vacant lots and digging down lots;

6. Removing encumbrances;

7. Issuing all permits to use or open streets;

8. Constructing, maintaining, repairing and cleaning sewers and drains;

9. Constructing, repairing, cleaning and maintaining public buildings, except school houses, almshouses, penitentiaries, fire and police station houses and other buildings the care and custody of which are otherwise provided for in this act;

10. The care and cleaning of all offices rented or occupied for public purposes;

11. The location, establishment, care, erection and maintenance of the public baths, public urinals and public comfort stations;

12. Erecting, repairing and maintaining signs indicating the names of streets;

13. Adopting and issuing regulations controlling the use by abutting owners and occupants of sidewalks and gutters for the disposition of sweepings, refuse, garbage or light rubbish;

14. Preparing a map of all existing underground pipes, mains, sewers and other sub-surface structures;

15. Making, performing, and executing contracts to furnish gas, electricity or any other illuminant, or steam, in, upon, across, over or under streets, parks, the water front and public buildings, either for public lighting or public use of heat

or power, selecting, locating, removing and changing street and water front lights and lights in public buildings;

16. Inspecting and regulating the construction of gas mains and pipes, steam mains, conduits and devices, pneumatic mains, conduits and devices, electric conductors, conduits, appliances, devices and subways in, upon, across, over or under the streets, parks, water front and public buildings; and granting permission to use the streets and to open the same for the carrying on therein of the business of transmitting, conducting, using and supplying for all purposes gas, electricity or steam or for the service of pneumatic tubes;

17. Inspecting and regulating the installation of all conductors and appliances that may be introduced into or placed in, upon, across, over or under any building, vacant lot or property; authorizing and regulating the use thereof; issuing certificates of such inspection to any person entitled to apply therefor and authorizing the use of such conductors, currents, appliances and devices by any such person or corporation;

18. Preparing and proposing to the council ordinances in regard to electric conductors, appliances, devices and currents for furnishing light, heat or power in any building which proposed ordinances shall prescribe the method of construction, operation, location, arrangement, insulation, installation and use of conductors, appliances, devices and currents; but all such proposed ordinances before presentation to the council shall be submitted to the board of estimate and apportionment for approval in order that the same may, so far as practicable, be made uniform throughout the city; all ordinances, rules and regulations concerning the use and installation of electrical conductors, subways, devices or appliances in force when this act takes effect to continue in force until new ordinances shall have been adopted by the council;

19. Inspecting, passing upon, and determining the necessity for and adequacy of all conductors, poles, subways, mains, conduits and electric devices in, upon, across, over or under ground, and, subject to approval by the board of estimate and apportionment, determining when electric conductors, devices or apparatus upon or above the surface shall be placed under ground; and, subject to like approval, determining when subways, conduits, appliances, conductors or devices that have been laid or constructed under the surface of any street, park or any part of the water front or any public building shall be removed or reconstructed or their location be changed; enlarging any such subway and making room therein for other persons or corporations lawfully entitled to space in existing subways;

20. Removing or causing to be removed all property obstructing the streets;

21. Constructing and maintaining of all bridges and tunnels which form a portion of the streets of the city, excepting bridges crossing navigable streams.

Sec. 225. Except as herein expressly provided the commissioner shall have no jurisdiction over any street under the control of the park department, or over any water front property under the control of the department of docks and ferries, provided, however, that he may be charged by the board of estimate and apportionment with the duty of cleaning the same and removing snow, ashes, garbage and refuse therefrom.

Sec. 226. The commissioner shall not grant permission or authority to open or use the streets; water front or any part thereof, or to enter any public building for any of the purposes described in subdivisions 15, 16, 17, 18 and 19 of section two hundred and twenty-four, except to persons or corporations duly authorized to carry in business as provided in sections 60 and 61 of the Transportation Corporations Act, and having the certificate of a Public Service Commission pro-

vided for in section 68 of the Public Service Commissions Law.

Sec. 227. The department of street cleaning of the City of New York is abolished and all the members of said department are hereby transferred to the department of street control.

Sec. 228. There shall be in the department, in addition to such other bureaus and branch offices as may be provided for by the board of estimate and apportionment:

1. A bureau of street cleaning, the head of which shall be known as "chief of the street cleaning bureau";

2. A bureau of highways, the head of which shall be known as "chief of the highway bureau";

3. A bureau of sewers, the head of which shall be known as "chief of the sewer bureau";

4. A bureau of gas and electricity, the head of which shall be known as "chief of the bureau of gas and electricity";

5. A bureau of public buildings, the head of which shall be known as "custodian of public buildings";

6. A bureau of incumbrances, the head of which shall be known as "chief of the incumbrance bureau."

Sec. 229. No person holding any office or position under the bureau of street cleaning shall be liable to military or jury duty.

Sec. 230. Subject to the approval of the board of estimate and apportionment, the commissioner may enter into contracts (1) for the removal of snow and ice from the streets; (2) for the disposition, for periods not exceeding five years, of all or any part of the street sweepings, ashes, garbage, dead animals, off-light refuse and rubbish to be removed from the city or from any borough.

Sec. 231. No department, board, officer or employe of the city or other person shall disturb the pavement or surface of any street, for any purpose, without first receiving written permission from the commissioner.

Sec. 232. The power to construct sewers and drains shall include the power to construct, operate and maintain sewage disposal works or plants and the necessary appurtenances. The cost of conducting sewage disposal works or plant may in the discretion of the board of estimate and apportionment be collected in whole or in part by assessment upon the property benefited.

Sec. 233. The commissioner, when authorized by the Board of Estimate and Apportionment, may employ a consulting engineer, who shall be expert in all matters relating to sewers and highways, and shall have had ten years' professional experience. All other civil engineers appointed by the commissioner shall have had at least three years' professional experience.

## TITLE 14.

### BRIDGE DEPARTMENT.

Section 234. The commissioner shall have control:

1. Of the management, maintenance, repair and alteration of all bridges, together with their approaches and entrances, which shall be under the jurisdiction of the department of bridges of the city at the time this act takes effect;

2. Of the construction, management, maintenance, repair and alteration of all other bridges, with their approaches and entrances, that may hereafter be constructed at the city's expense in whole or part, or that may hereafter be acquired by the city, across navigable waters or having termini in two or more boroughs, excepting, however, any bridge wholly included in a public park or under the control of the street commissioner as provided in section two hundred and twenty-four of this act;

3. Of the construction, management, maintenance, repair and alteration of all tunnels hereafter constructed at the city's expense in whole or part, under navigable waters or having termini in

two or more boroughs, excepting, however, tunnels constructed pursuant to the provisions of the rapid transit act;

4. Of making such regulations concerning the use of any such bridge or tunnel and the collection of such tolls and other charges for the use thereof as are now authorized by law or may hereafter be authorized by the board of estimate and apportionment;

5. Of the operation of railroads upon any such bridges and their approaches, so far as such operation affects the maintenance, repair, alteration and safety of such bridges and approaches. Nothing contained in this section shall limit or affect the jurisdiction and powers of the public service commission in the first district.

Sec. 235. All bridges and tunnels under the jurisdiction of the department are declared to be public highways, subject to such tolls and prudential regulations as the board of estimate and apportionment may prescribe; provided, however, that on every such bridge a passageway for foot passengers shall be open at all times and shall be free of tolls.

## TITLE 15.

### BUILDING DEPARTMENT.

Section 236. The commissioner shall be a competent architect or builder of at least ten years' experience. He shall have control throughout the city of the construction, alteration and removal of all buildings and other structures completed or in the course of completion, except docks, bridges, tunnels, subways, and the buildings and structures appurtenant to docks, bridges, tunnels and subways; provided, however, that no permit shall be granted and no plan approved by the department for the construction or alteration of a tenement-house, or for the alteration or conversion of any building for use as a tenement-house, until there shall have been filed in the department the certificate of the tenement-house commissioner, issued as provided in the tenement-house act.

Sec. 237. There shall be a bureau of buildings in each of the boroughs, the head of which shall be a superintendent of buildings, under the control of the commissioner.

Sec. 238. The commissioner shall have power:

1. To order the reconstruction or removal of any building or structure, or part thereof, under his jurisdiction, which exists in violation of the provisions of law or which, in his judgment, is dangerous to life. If the order be not obeyed, or if there be imminent danger that any such building or structure, or part thereof, may fall, whereby the public safety may be endangered or a street become obstructed, the commissioner shall cause such building or structure, or part thereof, to be shored or otherwise made safe, or to be removed, as he may deem expedient; and all expenses reasonably incurred by the city in shoring, or making safe, or removing any unlawfully existing or unsafe building, structure, or part thereof, shall be recoverable by action by the city against the owner of the land upon which such building or structure, or part thereof, is or was located, and shall be a lien upon such land having priority over all other liens or incumbrances except taxes and assessments, and liens and incumbrances existing when this act takes effect;

2. To appoint and at pleasure remove a superintendent of buildings in each borough, who shall be a competent architect or builder of at least ten years' experience, and have been a resident of the borough for which he is appointed for at least two years prior to the date of his appointment;

3. To appoint and at pleasure remove a chief inspector of buildings for each borough, who shall be a practical and competent architect, builder or engineer

of at least ten years' experience. In case of absence or disability of the superintendent such chief inspector of buildings shall possess all the powers and perform all the duties of the superintendent.

Sec. 239. The commissioner, his deputy, the superintendents and the inspectors of the department, shall have power to enter, examine and inspect, at any reasonable hour, any building or structure under the jurisdiction of the department, completed or in the course of completion, and of any part thereof, or place therein, for the purpose of enabling them to perform the duties imposed by law upon the department; provided, that no inspector shall enter any occupied building or structure between sunset and sunrise, except in pursuance of a written order, signed by the commissioner or his deputy, or a borough superintendent, authorizing such entry and examination, and specifying the reason therefor, which order shall first be exhibited to and a copy thereof served upon the occupant of the building or structure to be entered and examined.

Sec. 240. The commissioner shall have power to vary or modify any of the provisions of law or ordinances relating to the construction or alteration of the proposed method of construction of any building about to be erected, or to the alteration or removal of any building or structure within his jurisdiction where there are practical difficulties in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed and public safety secured and substantial justice done. The owner, or the agent of the owner, of any building or structure, may petition the commissioner for such variation or modification, setting forth the grounds therefor. The commissioner shall fix a date within a reasonable time for a hearing upon the petition and shall, as soon as practicable after such hearing, render his decision thereon, which shall be final. A copy of the petition and decision shall be entered upon the records of the department, and if the petition be allowed, a certificate to that effect, together with a statement of the reasons therefor, shall be issued by the commissioner.

Sec. 241. The superintendent of buildings in each borough shall have power, and it shall be his duty, to pass upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration of any building or structure to be erected within the city, and to require that such mode, manner of construction or materials shall conform to the true intent and meaning of the law and ordinances and the rules and regulations of the department. Whenever the superintendent of buildings shall have rejected or refused to approve the mode, manner of construction or materials proposed to be followed or used in the erection or alteration of any such building or structure, or whenever it is claimed that the rules and regulations of the department, or the law or ordinances, do not apply, or that an equally good and more desirable method of construction can be employed, the owner of such building or structure may appeal or cause an appeal to be taken from the decision of such superintendent, provided the amount involved in such decision shall exceed the amount of one thousand dollars. Such appeal shall be heard by a board consisting of the following members of associations in the city: one member of the New York chapter of the American Institute of Architects; one member of the New York Board of Fire Underwriters; two members of the Mechanics and Traders' Exchange, one of whom shall be a master mason and one a master carpenter; one member of the Society of Architectural Iron Manufacturers; and one member of the Real Estate Owners and Builders' Association, who shall be an architect or builder; all of whom shall be appointed by their re-

spective associations, and the appointment of whom by their respective associations shall be certified annually to the mayor, to the commissioner of buildings, and to the fire commissioner. The mayor shall annually designate one of such examiners as the presiding officer of the board. At least five affirmative votes shall be necessary to any decision of the board of examiners reversing a decision of the superintendent of buildings. No member of the board shall be qualified to sit in any case in the decision of which he is directly or indirectly personally interested. The said board shall convene for purposes of business upon notice from any superintendent, but shall not be required to hold such sessions more frequently than once a week. Each of said examiners shall be entitled to receive ten dollars for each attendance, and the comptroller shall pay the same out of a fund to be provided for that purpose by the board of estimate and apportionment, on the voucher of the clerk of said board of examiners. The clerk of said board shall be appointed and may at pleasure be removed by the mayor, and shall receive an annual salary of one thousand five hundred dollars. The appeal authorized by this section must be taken within ten days from the entry of a decision upon the records of the superintendent of buildings in the borough in which the building or structure is located or is proposed to be erected, by filing with such superintendent and with the clerk of the board of examiners copies of all the papers required by law or ordinance or by the rules and regulations of the department to be submitted upon an application for a building permit; and the board of examiners shall thereafter fix a day within a reasonable time for the hearing of such appeal. Upon such hearing the appellant may appear in person or be represented by his agent or attorney. The decision of the board shall be rendered without unnecessary delay, and shall be final.

Sec. 242. No officer or employee of the department shall, directly or indirectly, engage in, conduct or carry on business as an architect, civil engineer, carpenter, plumber, iron worker, mason or builder, or be engaged in the manufacture or sale of articles entering into the construction of buildings, or act as an agent for any person engaged in the manufacture or sale of such articles, or own stock in or securities of any corporation engaged in the manufacture or sale of such articles.

## TITLE 16.

### TENEMENT-HOUSE DEPARTMENT.

Section 243. The commissioner shall:

1. Enforce the tenement-house act within the city;
2. Have power of sanitary inspection of tenement houses and the premises connected therewith; and may enter, inspect and survey all buildings and the premises connected therewith, but nothing herein contained shall abrogate or impair the powers of the health department;
3. Have exclusive power:
  - (1) To require every tenement house to be equipped with proper fire escapes or with proper means of escape in case of fire;
  - (2) To prevent the obstruction of fire-escapes upon tenement houses;
  - (3) To provide for the light and ventilation of tenement houses and the premises connected therewith.

Sec. 244. The commissioner shall, subject to the provisions of this act and of the administrative code:

1. Discipline any employee for neglect of duty or violation of or neglect of any order or rule of the department;
2. Provide or designate suitable uniforms or badges to be worn by the in-

spectors and officers of the department;

3. Provide a general complaint book, open to public examination, and make an investigation as to all complaints;

4. Require reports and information of such facts at such times and in such form as he may prescribe relative to the condition of persons residing in tenement-houses; from all dispensaries, hospitals, charitable or benevolent societies, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and may make examinations and take proofs in matters relating to the administration of departmental duties;

5. Make and enforce suitable rules and regulations as to the manner of filing plans, specifications, amendments and applications.

Sec. 245. In addition to such other bureaus as may be authorized by the board of estimate and apportionment, there shall be in the department:

1. A bureau of plans, which shall examine plans and specifications for light, ventilation, sanitary equipment and equipment for fire protection for tenement houses hereafter altered or erected and for buildings hereafter altered or reconstructed for use as tenement houses;

2. A bureau of inspection which shall inspect all completed tenement houses and shall inspect also all tenement houses in course of construction or alteration and all buildings in course of alteration or conversion for use as tenement houses, for the purpose of ascertaining whether the same are being constructed, altered or converted in conformity with law, and the plans and specifications approved as prescribed in the administrative code; and shall record all violations of the tenement-house act and of all rules and regulations of the department;

3. A bureau of records which shall contain records of every tenement house, as prescribed by the administrative code and by the commissioner.

Sec. 246. The commissioner shall establish and maintain in each borough such branch offices and bureaus as may be necessary for the prompt and efficient exercise and discharge of his powers and duties and as may be provided for by the board of estimate and apportionment.

Sec. 247. Whenever it shall be certified by an inspector or officer of the department that the inhabitants of a tenement house are infected with a contagious disease or that a tenement house or any part thereof is unfit for human habitation or dangerous to life or health from lack of repair, or by reason of defects in drainage, plumbing, ventilation, or construction, or by reason of the absence of such fire escapes as are required by the tenement house act or by the department acting under the authority conferred by such act, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said house, the department may issue an order requiring all persons therein to vacate such house, or part thereof, within not less than twenty-four hours nor more than ten days, for the reasons to be mentioned in said order. Such order may be served in the manner prescribed in the tenement house act. In case such order be not complied with within the time specified, the department may cause said tenement house, or part thereof, to be vacated. The department may extend the time within which to comply with said order and when it is satisfied that the danger from said house, or part thereof, has ceased to exist or that it is fit for human habitation may revoke said order.

Sec. 248. Whenever any tenement house, or any part thereof, or any premises connected therewith, or any building, structure, excavation, sewer, or the lot on which the house is situated or the plumbing, sewerage, drainage, light or ventilation thereof, or any business pursuit carried on therein or thereupon,

is in the opinion of the department dangerous or detrimental to life or health, the department may declare that the same, to any extent which it may specify, is a public nuisance, and may order the same to be removed, abated, suspended, altered, cleansed, disinfected or repaired as the order shall specify. Any order of the department may be served in the manner provided in the tenement house act. If any order of the department is not complied with, or so far complied with as the department may regard as reasonable, within five days after the service thereof, or within such shorter time as the department may designate, then such order may be executed by said department through its officers, agents, employees or contractors.

Sec. 249. When used in this chapter:

1. "Tenement house" means a tenement house as defined in the tenement house act;

2. "Nuisance" means public nuisance as known at common law or in equity jurisprudence; and includes a tenement house which is, and whatever in a tenement house is:

(1) Dangerous to human life or detrimental to health;

(2) Overcrowded with occupants, or is not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted, having regard to its intended or actual use; or

(3) Whatever renders the air of a tenement house unwholesome.

## TITLE 17.

### CHARITIES DEPARTMENT.

Section 250. The commissioner shall be the overseer of the poor of the city. He shall have power and it shall be his duty, subject to the provisions of this act and of the administrative code:

1. To enforce the poor law within the city;

2. To establish and maintain in each borough such divisions, offices and bureaus as may be necessary for the prompt and efficient exercise and discharge of the powers and duties of the department, and as may be provided for by the board of estimate and apportionment;

3. To make, amend, alter and enforce rules, orders and regulations for the government of the city institutions under his jurisdiction;

4. To provide for the care, custody and disposition of poor persons; but he may not dispense any form of outdoor relief, except in the case of the blind, as herein provided, and he may defray the expense of the removal or transportation of any person who may come under his charge whenever, in his judgment, the city will thereby be relieved from an unnecessary or improper charge;

5. To provide for the temporary care of vagrant and indigent persons, for an investigation into their circumstances, and for bringing every person, found upon such investigation to be a vagrant, before a magistrate pursuant to law;

6. To investigate the circumstances of every person, and of the near relative of every person, admitted to an institution under his charge, or placed by him in an institution wholly or partly under private control;

7. To classify, segregate and group, so far as practicable, all the inmates of the public institutions under his charge;

8. To provide for and compel the employment at labor of such inmates as should be so employed; to determine the hours and scope of such labor, the punishment for neglect or refusal to perform such labor or for violation of any other rule, order or regulation of the department and to provide for the use and disposition of the articles produced by such labor;

9. To establish and maintain in the public institutions under his charge such schools or classes for the instruction

and training of inmates as he may deem desirable;

10. To establish, maintain and direct such training schools for nurses as may be requisite for the proper administration of the hospitals under his charge, and to provide therefor a suitable course of instruction, a sufficient number of instructors, and adequate equipment and buildings;

11. To place any child, who may be in his custody, in an institution, as a public charge, whenever in his judgment it shall be for the best interest of such child so to do; but he shall not place a child in any institution which the state board of charities shall have certified has failed to comply with the rules and regulations established by that board pursuant to the constitution of the state; nor shall he place any child in any institution without the city unless said board shall have certified that such institution is properly protected against fire and other dangers;

12. To indenture, place out, discharge or transfer any child who may be in his custody, or who may have been placed by him in an institution as a public charge, whenever in his judgment it shall be for the best interests of such child so to do, and he may revoke and cancel any such indenture; and he may also contract for the maintenance of any child in his custody;

13. To make suitable provision in each of the boroughs of Brooklyn, Queens and Richmond for the reception, medical examination, and temporary care in said boroughs, of persons alleged to be insane and of prisoners awaiting trial who are seriously ill or dangerously wounded;

14. To enlarge, alter and repair the public buildings under his control whenever in his judgment such changes are necessary or expedient, and to construct such new buildings as the proper administration of his department may require;

15. To take charge of such of the city's morgues as are not under the control of the health department and the board of trustees of Beluevue and Allied Hospitals, and also of all Potter's fields and, when necessary, to provide additional public burial places for the poor and, in his discretion, to cremate the bodies of deceased paupers when their relatives do not object to such cremation; provided, however, that the Potter's field on Hart's island shall remain under the control of the correction department;

16. To distribute among the poor adult blind, residents of the city, in such manner as he may prescribe, such sums as may be appropriated for their relief, and he may exercise his discretion in the selection of the recipients of this relief;

17. To exercise general control over, and to establish rules and regulations governing, all ambulance service in the boroughs of Brooklyn, Queens and Richmond; except such ambulance service as may be maintained by the department of health; to establish ambulance districts therein; and to establish and maintain such ambulance stations therein and to provide and maintain such ambulances as he may deem necessary;

18. To receive, and provide temporary care and treatment, within any public hospital under his control, for all persons, irrespective of their residence, when such persons shall have been injured or become ill in any public place within the city, and may not be safely removed to their homes;

19. To compel the relief and maintenance, in such manner as he may approve, in whole or in part, of a poor person by his grandparents, parents, children, or grandchildren, and of a destitute child by his grandparents or parents, when such relative of said poor person or destitute child shall have sufficient means to provide such relief or maintenance;

20. To initiate, conduct, and, in his discretion, to compromise bastardy pro-

ceedings; receive the moneys collected therein, and apply the same to the support of the child, or of the child and its mother; account for said moneys, as required by the comptroller; and apply to any court of competent jurisdiction for a warrant for the arrest of the defendant, when, for any reason, a recovery cannot be had upon the undertaking given by said defendant in said proceeding;

21. To enforce, in his name as commissioner, by action or proceeding, any bond or recognizance, given in a proceeding for the maintenance of an abandoned wife or child; receive the moneys collected in such action or proceeding and apply the same to the support of the wife or child, or either of them; bring and conduct an action, in his name as commissioner, to recover in case of forfeiture of bail undertaking; apply the amount recovered in said action and the amount of cash bail that may have been forfeited, to the purpose hereinabove designated; appeal, in his discretion, from the decision or judgment of the magistrate in such proceeding, and appear as respondent in a defendant's appeal therein; and, in his discretion, compromise such action or proceeding.

Sec. 251. The commissioner may receive and treat in the institutions under his control persons who do not reside within the city, provided that such persons shall pay such sum for board and attendance as may be fixed by the commissioner, and that such person shall not be received to the exclusion of residents of the city. The commissioner may also receive and treat in any institution under his control any persons able to pay, in whole or in part, the cost of their care and maintenance therein, and it shall be the duty of the commissioner to collect from each such person such partial or entire payment therefor as he may be able to make.

Sec. 252. The commissioner shall have charge and control of all hospitals, almshouses and other institutions, owned or possessed by the city, and devoted to the care of poor persons; excepting, however, such hospitals and other institutions as are by this act placed under the charge and control of some other department and excepting the premises demised in the lease of Ward's Island and the buildings thereon from the city to the state of New York, but only for the period of said lease.

Sec. 253. It shall be the duty of the commissioner to inspect all charitable, eleemosynary or reformatory institutions, in which any person shall have been placed, committed, or received, or is retained, as a charge against the city, and he shall make no certificate that will enable any such institution, claiming the moneys of the city for the care, support, secular education, or maintenance of any such person, to obtain payment therefor, and no payment shall be made to such institution therefor, if it shall appear in the judgment of the commissioner that such person is neglected or is received or retained therein in violation of the rules and regulations of the state board of charities, or that moneys paid by the city to any such institution for the care, support, secular education, or maintenance of its inmates shall have been expended for any other purpose. Whenever the commissioner shall decide, after reasonable notice to any institution, and a hearing, that the cost and maintenance, education, or medical treatment, of any inmate therein is not a proper charge against the city, and a written notice thereof, with the reasons therefor, is given by him to such institution, thereupon all right on the part of said institution to receive compensation from the city on account of such inmate shall cease.

Sec. 254. The term "poor person" when used in this chapter means "one unable to maintain himself," as defined in the poor law. The word "institution" whenever used in this chapter shall include any charitable corporation, one of whose

objects is the care of children or the placing of children in families.

## TITLE 18.

### DEPARTMENT OF CORRECTION.

Section 255. 1. Except as otherwise provided in this act, the commissioner shall have charge and control of all prisons and correctional institutions belonging to the city, including the county jails of Queens and Richmond and the institution heretofore described as the county jail or sheriff's prison of the county of New York, commonly known as Ludlow street jail.

2. He shall have custody of all persons lawfully committed or remanded to any institution under his control.

3. He shall, upon such terms and conditions as shall be prescribed in the administrative code, receive and detain, when lawfully required by the sheriff of a county wholly included in the city, any person under arrest or detention pursuant to the order of any court or judge in a civil action or proceeding, subject to the order of the sheriff; provided, however, that all such persons shall be held and maintained entirely separate and aloof from prisoners charged with or convicted of crime.

Sec. 256. From and after the date when this act takes effect, the prison located upon Riker's Island shall be known and described as the New York City Penitentiary, and thereupon or as soon thereafter as may be practicable, the commissioner shall transfer to said penitentiary all employees of and all prisoners confined in the institution known and described as the New York County Penitentiary on Blackwell's Island, which institution, as such, shall be abolished from and after the first day of January, nineteen hundred and eleven.

Sec. 257. The commissioner shall have exclusive jurisdiction and control over Riker's and Hart's islands and, until as hereinafter provided, over such portions of Blackwell's island as are under the jurisdiction of the department when this act takes effect. He may cause to be removed to Riker's island or to Hart's island, the penal institutions under his jurisdiction on Blackwell's island, or any of them and the jurisdiction and control over any buildings or premises upon Blackwell's island, becoming thereby vacant, shall thereupon immediately vest in the charities department.

## TITLE 19.

### BELLEVUE AND ALLIED HOSPITALS

Section 258. The "Board of Trustees of Bellevue and Allied Hospitals" shall have charge and control of all public hospitals now owned and hereafter established by the city upon Manhattan island and in the borough of The Bronx, except such hospitals as are or may be under the charge and control of the health department.

Sec. 259. The board shall consist of eight members, to be appointed by the mayor as hereinafter provided, seven of whom shall be residents of the county of New York, and at least five of the borough of Manhattan. The remaining member shall be the charities commissioner who shall serve ex-officio. The term of office of the members of the board, other than the charities commissioner, shall be seven years from the first day of February following their appointment. In the month of January, and on or before the twentieth day thereof, prior to the expiration of the term of office of any trustee, other than the charities commissioner, the mayor shall appoint his successor for the term of seven years. The mayor shall appoint and remove trustees, other than the charities commissioner, in the manner prescribed in the administrative code. Every trustee shall serve without pay. No trustee shall be interested directly or indirectly, in the furnishing or per-

forming of work, labor, services, materials, or supplies of any kind to or for said hospitals by contract, or otherwise.

Sec. 260. The board shall have power and it shall be its duty, subject to the provisions of this act and of the administrative code:

1. To appoint and remove all superintendents, including a general superintendent, and such medical officers and other subordinates and employes as may be necessary for the efficient management and control of said hospitals; in making such appointments, except in the case of superintendents and of employees performing duties that are personal to a member of the board, the board shall consider the nominations, if any, of the general superintendent;

2. To make suitable provision for the reception, medical examination and temporary care of persons alleged to be insane;

3. To receive, and provide temporary care and treatment, within any hospital under its control, for all persons irrespective of their residence, when such persons shall become injured or ill in any public place within the city and may not be safely removed to their homes;

4. To exercise general control over, and to establish rules and regulations governing, all ambulance service in the boroughs of Manhattan and The Bronx, except such ambulance service as may be maintained by the department of health; to establish ambulance districts therein; and to establish and maintain such ambulance stations therein and to provide and maintain such ambulances as it deems necessary.

Sec. 261. The board may receive and treat in the hospitals under its control persons who do not reside within the city, provided that such persons shall pay such sum for board and attendance as may be fixed by the board, and that such persons shall not be received to the exclusion of residents of the city. The board may also receive and treat in any hospital under its control any person able to pay, in whole or in part, the cost of his care and maintenance therein, and it shall be the duty of the board to collect from each such person such partial or entire payment therefor as he may be able to make.

Sec. 262. Whenever any sick person in said hospitals shall, in the opinion of the board, cease to be a proper case for treatment in said hospitals, the board may cause such person to be transferred to the care and control of the charities commissioner who shall forthwith receive and care for him. If any sick person under treatment in any of said hospitals shall die while under the care of the board, it may call upon the charities commissioner forthwith to remove the body of such person, and he shall forthwith remove the same for burial or other proper disposition; and the cost and expense of the removal, burial, or other disposition shall be paid by the charities department.

Sec. 263. Subject to approval by the board of estimate and apportionment, the board may enter into a contract or contracts with the Bellevue Training School for Nurses for the occupation and use of any building or buildings as a training school for nurses and may establish, maintain and direct such training schools for nurses as may be requisite for the proper administration of the hospitals under its charge.

Sec. 264. The medical board of each of said hospitals shall continue as constituted at the time when this act takes effect. Members of these medical boards and their successors shall serve without pay and shall hold office as long as they shall perform their duties in a manner satisfactory to the board of trustees. Vacancies occurring in the medical boards shall be filled by the board of trustees by appointment of members of the medical profession resident in the city. The board of trustees shall, on nomination of the

medical board in each of said hospitals, appoint medical and surgical house officers in the respective hospitals, all of whom shall serve without pay.

## CHAPTER IX.

### ASSESSMENTS FOR LOCAL IMPROVEMENTS AND AWARDS FOR CHANGES OF GRADE.

Sec. 265. The word "assessment" wherever used in this chapter shall be construed to mean an assessment for any local improvement which may lawfully be confirmed otherwise than by a court of record.

Sec. 266. There shall be a board of assessment and award consisting of three persons who shall appoint a secretary, clerks and subordinates when provision for their salaries shall have been made by the board of estimate and apportionment.

Sec. 267. The board of assessment and award shall be charged with the duty

1. Of making all assessments;  
2. Of making all awards as compensation for loss and damage caused by a change in the grade of a street theretofore established by lawful authority in either of the following cases:

(a) When assessments are about to be made for the regulating and grading of such street. The amount of such awards shall be included in the assessment for the regulating and grading of such street as a part of the expense thereof. In such cases, the awards so made shall be limited to compensation for loss or damages caused to buildings or other improvements.

(b) When the grade of any street has been changed by reason of the building of any bridge, bridge approach, viaduct or other structure, and where no assessment for the expense of such construction is to be laid. The award in such cases shall cover damages caused by such change of grade to both land and buildings. The said board shall certify such awards to the controller for payment.

3. Of making all awards as compensation for loss and damage in cases arising under subdivision (a) to unimproved land, whenever such awards are authorized by the board of estimate and apportionment.

4. The board of assessment and award shall have power to compel by subpoena the attendances of witnesses, with or without books or papers, and to examine them with respect to assessments or damages for changes of grade.

Nothing in this section shall be construed to affect the powers of any commission existing at the time this act takes effect and authorized to make awards for loss or damage caused by change of grade.

Sec. 268. 1. The board of assessment and award shall in no case assess upon any land more than one-half the fair value thereof, without the improvements, if any, thereon.

2. Except upon a petition signed by the owners of more than one-half, in linear feet, of the property fronting upon the line of any proposed improvement, no assessment shall be imposed for the paving, curbing or flagging of any street or any portion thereof which has once been paved, curbed or flagged, where the expense of such work has been paid by the owners of the adjoining property; provided, however, that nothing herein contained shall be construed to relieve or release the owners of property, grantees of the mayor, aldermen and commonalty of the city of New York, or of from any covenants to pave or repave or otherwise physically improve such streets.

Sec. 269. There shall be a board of revision of assessments and awards to consist of the comptroller, corporation counsel and president of the tax department. The comptroller may be represented in the board by a deputy, the corporation counsel by an assistant and the president of the tax board by a tax commissioner;

but in any such case a written designation by the member of the board shall be filed with the secretary. The board shall have power

1. To hear and consider on the merits objections to any assessment or award made by the board of assessment and award;

2. To subpoena and examine witnesses in relation to any such assessment or award;

3. To confirm any such assessment or award;

4. To revise and correct any such assessment or award and confirm the same as revised and corrected;

5. To return any such assessment or award to the board of assessment and award with directions to revise and correct, and then to confirm, the same.

In case any assessment or award shall not have been confirmed, or revised and corrected and confirmed, or returned for revision and correction, within thirty days after it shall have been received by the board of revision of assessments and awards, it shall be deemed to be confirmed at the expiration of said period.

Sec. 270. No action to vacate an assessment or remove a cloud upon title by reason thereof or to recover moneys paid for an assessment, and no certiorari to review a determination with respect to an assessment shall be maintained; but owners of property shall, with respect to assessments and the recovery of moneys paid for assessments, be confined to the proceedings for which provision is made in the administrative code.

## CHAPTER X.

### LOCAL BOARDS.

Sec. 271. Each borough shall constitute a local improvement district. There shall be in each district a board of local improvements, to be known as the "local board," consisting of the borough president and the councilmen elected from the borough, who shall serve without compensation. The jurisdiction of a local board shall extend over the district for which it is constituted. The borough president shall be chairman of the local board.

Sec. 272. If any proposed local improvement specified in the next section shall affect more than one local improvement district, the members of the local boards of the districts affected shall together constitute the local board for the purposes of said improvement.

Sec. 273. A local board may initiate proceedings for the construction of tunnels, bridges, sewers and drains, the opening, closing, extending, widening, grading, paving, repaving, grading, regrading, repairing and resurfacing streets, flagging, reflagging, curbing and recurbing sidewalks, laying and relaying crosswalks, setting and resetting street lamps, providing and renewing signs showing the names of streets, fencing vacant lots, digging down and filling in lots, and for acquiring real property for parks, tunnels, bridges and approaches thereto, and for streets, sewers and drains; and may by resolution, approved by the board of estimate and apportionment, authorize and direct the department, board or commissioner having jurisdiction, to execute and carry out the improvement.

2. If the estimated expenses to be incurred under any one such resolution be not over five thousand dollars and the whole amount is to be raised by assessment on the property benefited, the approval of the board of estimate and apportionment shall not be necessary.

3. The board of estimate and apportionment shall by resolution to be adopted in January of each year, fix the aggregate cost of all local improvements in each borough which may be authorized during said year as provided in subdivision two of this section.

Sec. 274. The expense of all local im-

provements made under the provisions of this chapter shall be assessed and be a lien on property benefited thereby in proportion to the amount of such benefit.

Sec. 275. A local board shall have power to hear complaints as to nuisances in streets, or against disorderly houses, drinking saloons, gambling houses or any other places or assemblages conducted in violation of good order or of the laws of this state, or other matters or things concerning the peace, comfort, order, and good government, respecting any neighborhood within the district or concerning the conditions of the poor, and to pass such resolutions concerning the same as may not be inconsistent with the powers of the council or of the respective administrative departments.

## CHAPTER XI.

### ACQUISITION OF REAL PROPERTY FOR PUBLIC PURPOSES.

Section 276. The city is authorized to acquire real property by purchase or by condemnation for any city or county purpose; but no real property shall be acquired except with the approval of the board of estimate and apportionment expressed in a resolution, made on its own motion or on the application of a department, board or commission, or of an officer of a county included within the city.

Sec. 277. The board of estimate and apportionment shall by general resolutions prescribe the manner in which all applications for the purchase of real property for public purposes shall be made to it by any department, board or commission, and by what maps, estimates of value, certificates of necessity, reports and other documents such applications shall be accompanied.

Sec. 278. All real property required by the city for public purposes shall be acquired either:

1. By purchase by the board of estimate and apportionment under the authority in this act conferred upon it; or,

2. Through the exercise of the right of eminent domain, by condemnation proceedings in the manner and according to the practice provided in the administrative code.

Sec. 279. If the board of estimate and apportionment shall by resolution so declare, title to any real property to be acquired for public purposes by condemnation shall pass to the city upon the qualification of the commissioners appointed to condemn the same, and the city may thereupon enter and take possession of such property. Whenever title is thus vested in the city the commissioners shall add interest to the awards at the rate of six per centum per annum from the date of their qualification to the date of the awards.

Sec. 280. The person in whose favor awards shall be made or costs taxed against the city shall have no right of action against the city for such award or costs except as provided in the administrative code; but the supreme court may, by mandamus, on the relation of the party entitled to such award or costs, direct the comptroller to pay the same.

Sec. 281. 1. The term "real property" as used in this chapter shall include all lands, lands under water, the water of any lake, pond, or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal and equitable in lands or water, or any privilege or easement therein, including terms for years and liens thereon by way of judgment, mortgage, or otherwise, and all claims for damages to such real property.

2. Whenever in this act authority is given to the city to acquire real property, it shall be construed to authorize the acquisition either of the fee simple, or any easement or other estate, interest or right therein, as the board of estimate and apportionment may determine.

## CHAPTER XII.

### THE MUNICIPAL CIVIL SERVICE COMMISSION.

Section 282. All appointments, promotions and changes of status of persons in the public service of the city shall be made in the manner prescribed by the constitution of the state and in accordance with the provisions of the civil service law, and such amendments as may be made thereto, and the provisions of this act.

Sec. 283. The municipal civil service commission shall have the power:

1. To appoint a secretary, examiners, and such other subordinates as may be necessary, within the amount appropriated therefor;

2. To make investigations concerning the enforcement and effect of the provisions of the civil service law, in so far as it applies to the city, and the rules and regulations prescribed thereunder, or concerning the action of any examiner or subordinate of the commission, or of any person in the municipal service, in respect to the execution of that act, and in the course of such investigations each commissioner and the secretary shall have the power to administer oaths;

3. To subpoena and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them, and such public records as it shall require in relation to any matter which it is required to investigate.

For the purpose of enabling the commission to comply with the provisions of this section, it shall have all the powers conferred by the code of civil procedure upon a board or committee, and may invoke the power of any court of record in the state to compel the attendance and testifying of witnesses, or the production thereby of books and papers as aforesaid.

Sec. 284. No officer of said city whose duty it is to sign or countersign warrants, shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the chamberlain or other disbursing officer of the city for the payment of salary or compensation to any person in the classified civil service of the city, for services rendered to the city, except upon certificate of the municipal civil service commission that all provisions of the civil service law, and of the rules adopted thereunder, have been complied with in all respects, so far as such law and rules apply to the person in whose favor the warrant is to be drawn. It shall be the duty of the commission, unless it shall find that such law and rules have not been complied with, to issue such certificate upon request.

Sec. 285. Whenever in any department, institution or office of any appointing officer, board or commission, any office, position or employment, within the classified municipal civil service, is abolished, or made unnecessary through the operation of this act or in any other manner, or whenever the number of offices, positions or employments of a certain character is reduced, the person legally holding the office or filling the position or employment thus abolished or made unnecessary shall be deemed to be suspended without pay, and shall be entitled to reinstatement in the same office, position or employment, or in any corresponding or similar office, position or employment, within the same department or office or where a department or office is abolished by this act then within the department or office succeeding to its functions, if within one year thereafter there is need for his services. Whenever such office, position or employment is abolished or made unnecessary, it shall be the duty of the head of the department, or institution or other appointing officer, board or commission having jurisdiction to furnish the name of the person or persons affected to the municipal civil

service commission, with a statement in the case of each of the date of his original appointment in the service. It shall be the duty of the municipal civil service commission forthwith to place the name of such persons upon a list of suspended employees for the office or position, or for the class of work in which they have been employed, or for any corresponding or similar office, position or class of work, and to certify such persons for reinstatement, in the order of their original appointment, before making certification from any other list, and no original appointment, promotion or transfer shall be made to any such office, position or class of work in such department or office until the list of persons eligible for reinstatement thereto has been exhausted. The failure of any person on any such list for reinstatement to accept, after reasonable notice, an office or position in the same borough and at the same salary or wages as the position formerly held by him shall be held to be a relinquishment of his right to reinstatement as herein stated.

## CHAPTER XIII.

### INFERIOR LOCAL COURTS.

#### TITLE 1.

##### THE CIVIL COURTS.

Section 286. The city court is hereby continued; provided however, that in sections three hundred and thirty-eight, thirty-one hundred and sixty-five, thirty-one hundred and sixty-nine, thirty-one hundred and seventy and thirty-two hundred and sixty-eight of the code of civil procedure, the word "city" shall be construed to mean and apply to the territory within the city of New York as it existed and was constituted prior to the first day of January, eighteen hundred and ninety-eight. The court consists of ten justices, one of whom is chief justice of the court, who shall be elected for a term of ten years by the qualified electors of the boroughs of Manhattan and The Bronx. Each of said justices shall receive a salary of twelve thousand dollars a year.

Sec. 287. The municipal court of the city of New York is continued and the justices of said court and all city marshals in office when this act takes effect shall continue in office until the expiration of their terms, unless sooner removed. The successors of said justices shall be elected for terms of ten years. The salary of each of said justices elected from the boroughs of Manhattan, The Bronx and Brooklyn shall be eight thousand dollars a year, and the salary of each of said justices elected from the boroughs of Queens and Richmond shall be seven thousand dollars a year; provided that, in addition to said salary, there shall be paid to a justice elected from either the borough of Queens or the borough of Richmond ten dollars for each day on which he shall hold court in either of the boroughs of Manhattan, The Bronx or Brooklyn, on the certificate of the president of the board of justices that the holding of court by such justice was necessary by reason of the illness or absence of the justice regularly assigned

to hold the same or of extraordinary pressure of business.

## TITLE 2.

### CRIMINAL COURTS.

Section 288. 3. For the purpose of the administration of justice in courts of inferior criminal jurisdiction the city is divided into two divisions, namely: The first division, embracing the boroughs of The Bronx and of Manhattan; the second division, embracing the boroughs of Brooklyn, Queens and Richmond.

Sec. 289. The courts of special sessions and the city magistrates' courts of each of the divisions of the city are hereby continued, and the justices of special sessions and city magistrates in office when this act takes effect shall continue to hold office until the expiration of their respective terms, unless sooner removed as provided by law.

Sec. 290. From and after the first day of January, nineteen hundred and ten, there shall be not less than eight justices of the court of special sessions and not less than sixteen city magistrates of the first division, and not less than seven justices of the court of special sessions and not less than sixteen magistrates of the second division of the city.

Sec. 291. 1. The salary of a justice of the court of special sessions in the first division shall be nine thousand dollars a year; and in the second division shall be six thousand dollars a year.

2. The salary of a city magistrate for the first division shall be seven thousand dollars a year. The salary of a city magistrate appointed in the borough of Brooklyn in the second division shall be six thousand dollars a year. The salary of a city magistrate for the boroughs of Queens and Richmond shall be five thousand dollars a year.

3. The term of office of a justice of the court of special sessions and of city magistrate shall be ten years and an appointment to fill a vacancy in either office shall be for the same term.

## CHAPTER XIV.

### ART COMMISSION.

Sec. 292. The art commission shall be composed of:

The mayor, ex-officio;  
The president of the Metropolitan Museum of Art, ex-officio;  
The president of The New York Public Library, Astor, Lenox and Tilden foundations, ex-officio;

The president of The Brooklyn Institute of Arts and Sciences, ex-officio; and

Six members appointed by the mayor as hereinafter provided, of whom one shall be a painter, one a sculptor, and one an architect; of the remaining three members none shall be a member of any profession in the fine arts. All shall be residents of the city. The term of office of each member appointed by the mayor shall be three years. Each head of a department shall be entitled to sit and vote as a member of the commission whenever it shall have under consideration any matter relating to his department.

The board of trustees of each insti-

tution herein named may designate in writing, filed with the mayor, a member of such board to sit and vote as a member of the commission in the absence of the president of such institution.

Sec. 293. At least twenty days before the expiration of the term of office of a member appointed by the mayor, or within ten days after the happening of a vacancy otherwise than by expiration of term, the mayor shall request the Fine Arts Federation of New York to submit a list of not less than three persons, each of whom shall possess the qualifications of the outgoing member, or of the member whose office shall have become vacant, as the case may be. Appointments by the mayor shall be made from such lists; but if in any instance the Fine Arts Federation shall fail to submit a list within ten days after being requested so to do, the mayor may appoint without such nomination. An appointment to fill a vacancy shall be for the unexpired term.

Sec. 294. The members of the commission shall serve as such without compensation and shall elect a president, vice-president and secretary from their number, each to serve for one year or until his successor shall be elected. The commission may adopt its own rules of procedure. Five members shall constitute a quorum.

Sec. 295. The city shall not purchase or take by gift, bequest or otherwise, any work of art unless the same or a design thereof shall have been first approved by the commission. No work of art shall be erected or placed in or upon, or allowed to extend over or upon, any street, park, public building or other property belonging to the city until the same and its proposed location shall have been approved by the commission. When required by the commission, a complete model of a proposed work of art shall be submitted to it. No work of art in the possession of the city shall be removed, relocated or altered in any way without the approval of the commission; but in case the immediate removal or relocation of any such work of art shall be deemed necessary by the mayor, the commission shall be deemed to have approved thereof unless it shall, within forty-eight hours after notice from the mayor, notify him of its disapproval of such removal or relocation. The term "work of art" as used herein shall apply to and include paintings, mural decorations, stained glass, statues, bas-reliefs or other sculptures, monuments, fountains, arches or other structures of a permanent character intended for ornament or commemoration.

Sec. 296. 1. No building, bridge, approach, gate, fence, lamp or other structure shall be erected upon any street or land belonging to the city unless the design thereof shall have been first approved by the art commission.

2. No arch, bridge, structure or approach, the property of any person, intended to extend or extending over or upon any street, park or property belonging to the city shall be erected or altered without the approval of the commission.

3. Nothing herein contained shall be construed as intended to impair the power of the park board to refuse its consent to the acceptance or erection of public monuments, memorials or works of any sort in any park.

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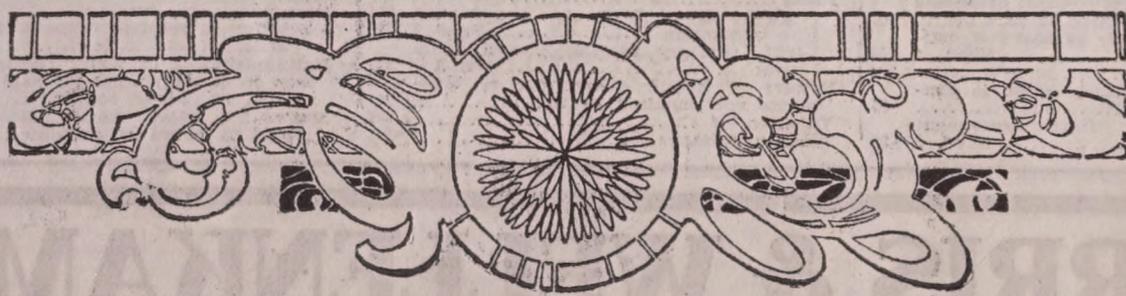
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